

Statement for Management

MAR 16 1987

December 1986

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Bighorn Canyon National Recreation Area



National Park Service

United States Department of the Interior

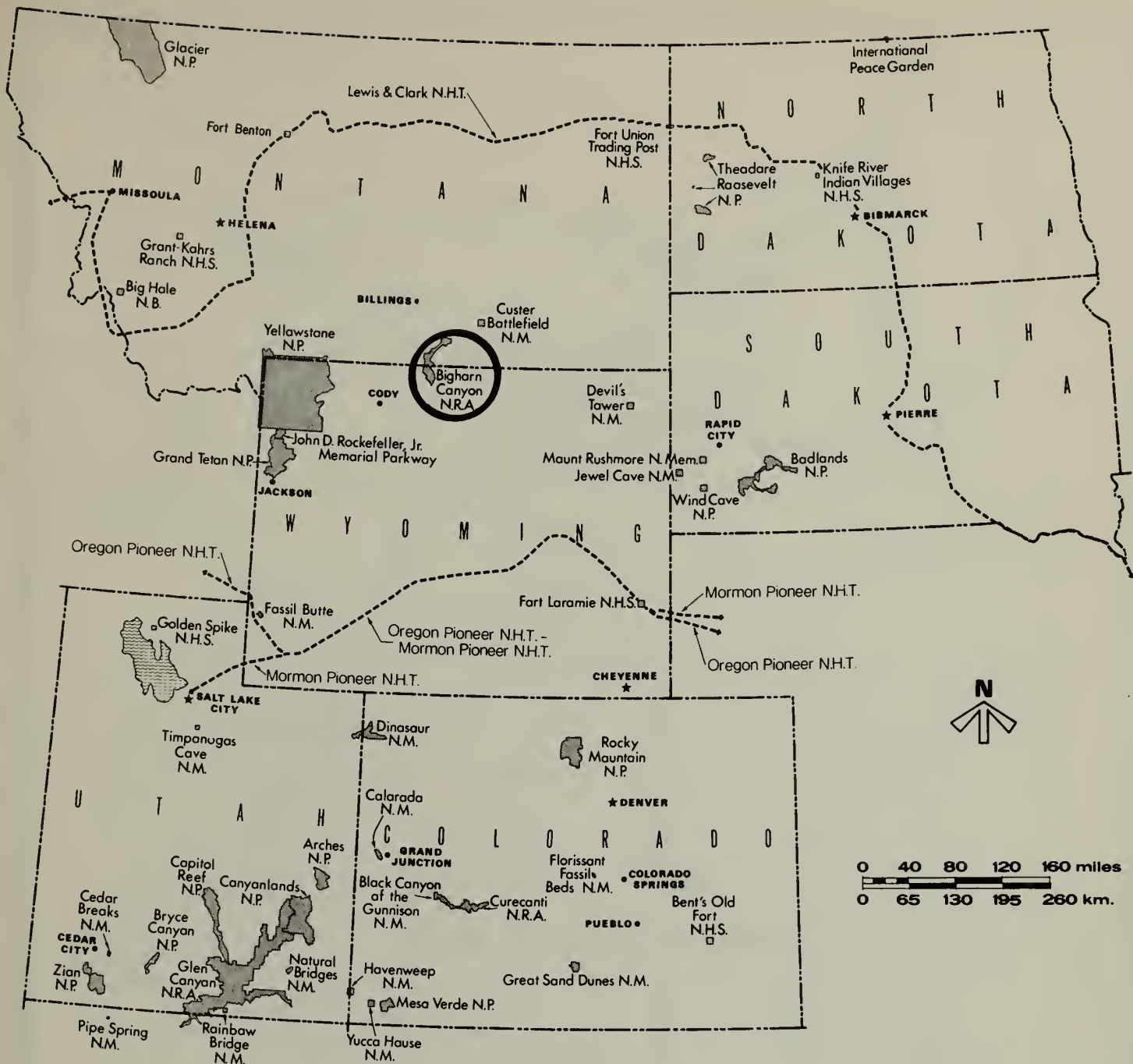
Definition

The Statement for Management (SFM) provides an up-to-date inventory of the park's condition and an analysis of its problems. It does not involve any prescriptive decisions on future management and use of the park, but it provides a format for evaluating conditions and identifying major issues and information voids.


Revision No. 1

Recommended by: William B. Bannister 9-8-86
Superintendent Date
Bighorn Canyon National Recreation Area

Approved by: Jack Reeh 12/15/86
Regional Director Date
Rocky Mountain Region ~~Acting~~



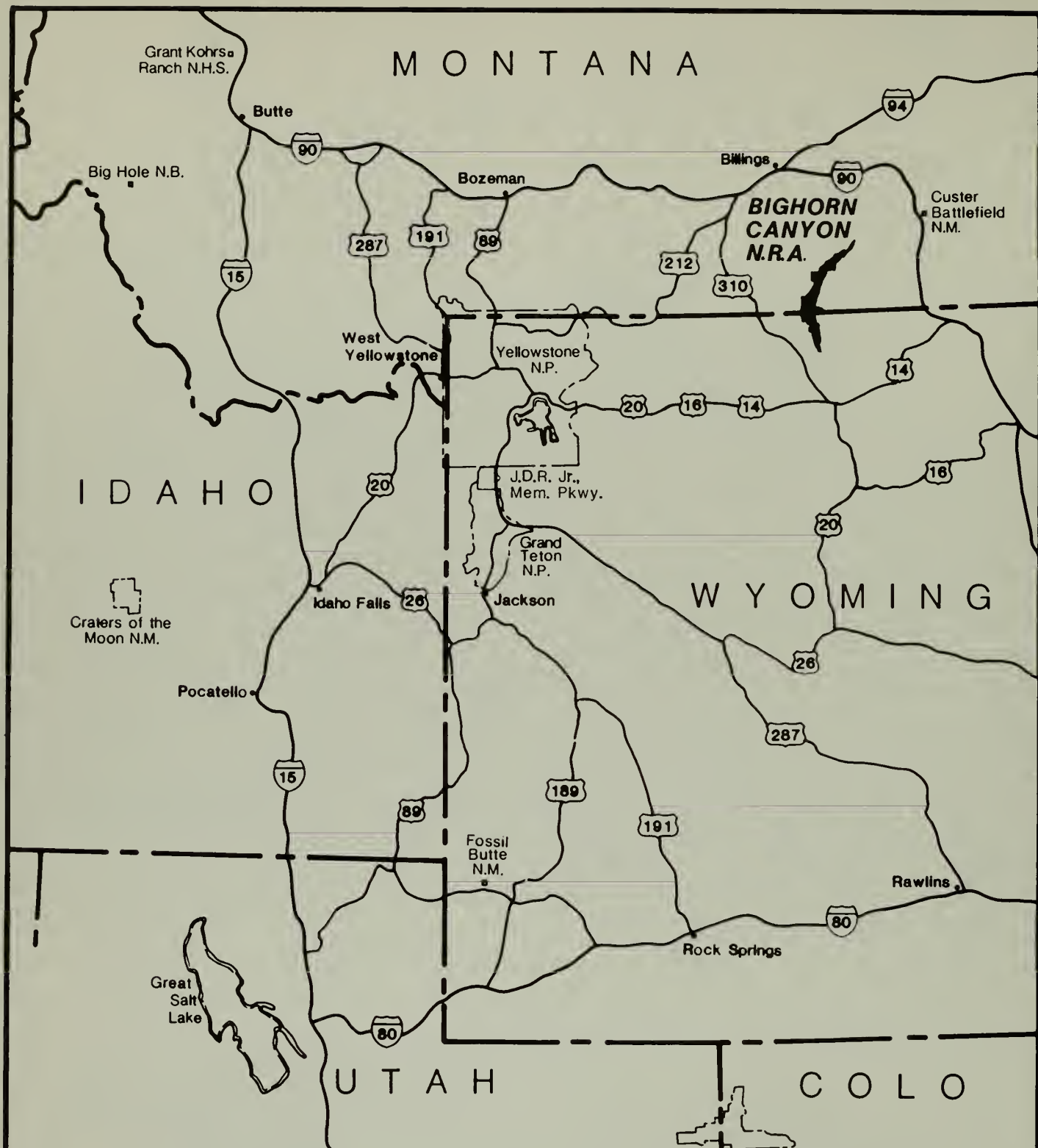
Legend

- Locations of Major Cities
- ★ Locations of State Capitals
- State Boundary Lines
-  National Park Service Areas
- National Park Service Historical Trails

ROCKY MOUNTAIN REGION

National Park Service

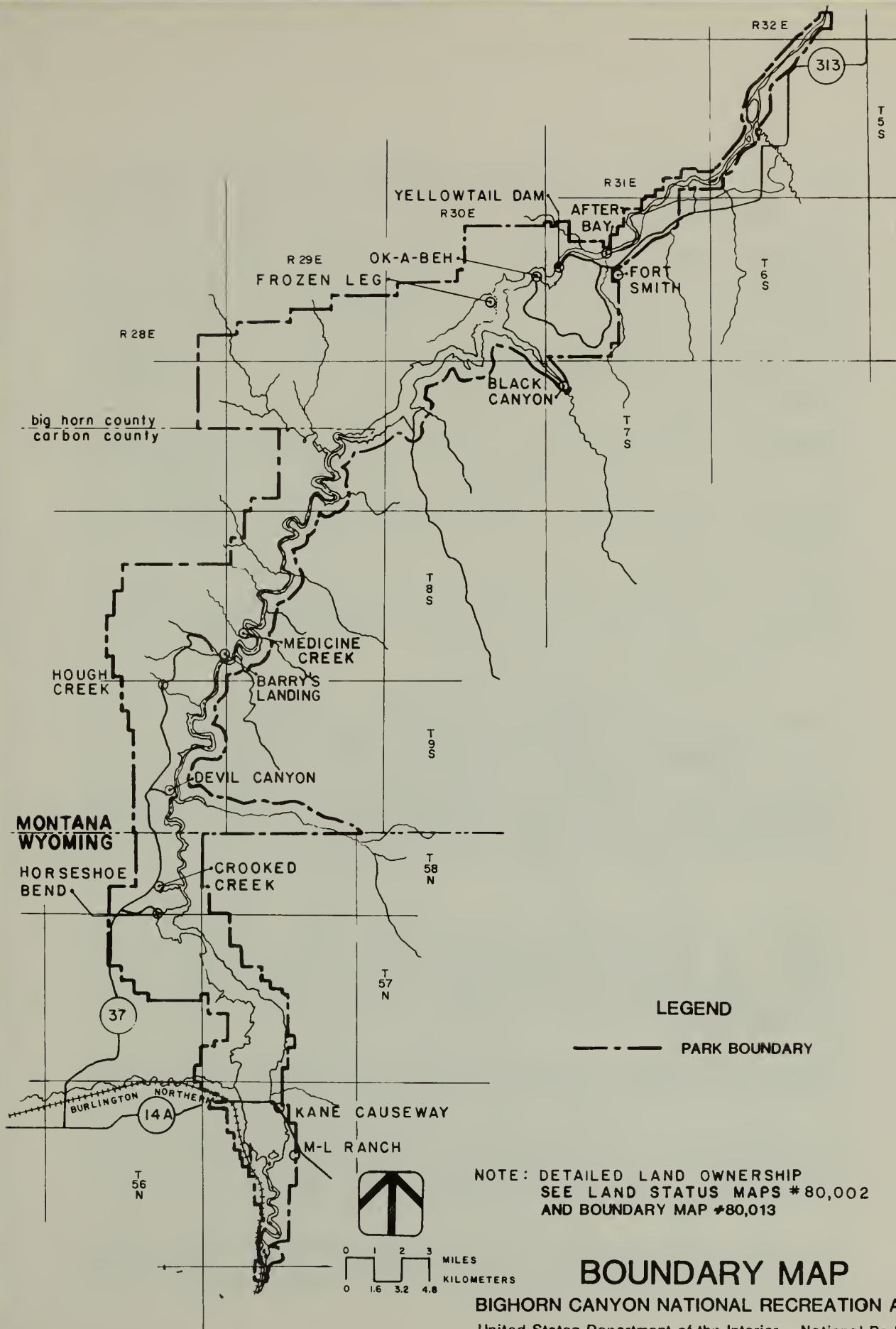
United States Department
of the Interior



Vicinity Map
Bighorn Canyon National Recreation Area

U.S. Dept. of the Interior - National Park Service

617 | 80,040
Dec '86 | RMRO



BOUNDARY MAP

BIGHORN CANYON NATIONAL RECREATION AREA

United States Department of the Interior - National Park Service

617 80,049

Nov. '83 RMRO

I. LOCATION

Bighorn Canyon National Recreation Area is in southeastern Montana and North-central Wyoming and encompasses 120,150 acres. Bighorn Lake, which is 70 miles long and covers 12,700 acres, was created by the Yellowtail Dam which was completed in 1965. The lake is the most important resource for a wide variety of recreational uses.

Access to Bighorn Canyon National Recreational Area is by State and county highway. Recreation headquarters is in Fort Smith, Montana, and can be reached by Montana Highway 313. Wyoming State Highway 37 provides access to the southern Horseshoe Bend development from U.S. Route 14A.

The recreation area lies within Carbon and Big Horn Counties, Montana, and Big Horn County, Wyoming.

II. PURPOSE AND SIGNIFICANCE

Bighorn Canyon National Recreation Area was established on October 15, 1966, by Public Law 89-664 ". . . in order to provide for public outdoor recreation use in the States of Wyoming and Montana by the people of the United States and for preservation of the scenic, scientific, and historic features contributing to public enjoyment of such lands and waters. . . ."

Bighorn Canyon offers a diversified landscape of forests and mountains, upland prairies, deep canyons, broad valleys, and Bighorn Lake. To the north and south lie broad valleys bordered by low, grassy hills; to the east and west the land rises to the Bighorn and Pryor Mountains.

The major river in this region is the Bighorn. It flows northward through the Bighorn Basin in Wyoming entering the Bighorn Canyon north of Lovell, Wyoming. The canyon was formed by a combination of accelerated stream erosion and gradual regional uplift. Much of it is narrow and confined within sheer walls--as high as 1,000 feet--interrupted by deep side canyons.

Through time, Bighorn Canyon has hosted several waves of human occupation. The Bighorn Basin has been continuously inhabited for over 7,000 years. The

earliest occupants moved throughout this region in response to the changing seasons and variations in available plants and animals. This succession of hunters and gatherers was followed by the Crow Indians, who migrated to the area because of pressure from tribes further east. In the 19th Century, trappers, explorers, and traders found their way through the Bighorn country using the Bad Pass Trail to avoid the dangers of the river. During the Civil War, the Bozeman Trail led to the mines of western Montana by crossing the Bighorn River north of the present Yellowtail Dam. Range cattle first arrived in the Bighorn Basin in 1879 setting the stage for permanent settlement. Remains of several ranches are scattered in and close to the recreation area.

The primary interpretive theme of the recreation area is "Geologic History," as outlined on page 53, Part Two, of the National Park System Plan. The park provides an outstanding example of erosional geology and block faulting. A strong subtheme is "The Western Expansion," outlined on page 43, Part One, of the National Park System Plan.

III. "INFLUENCES." INVENTORY AND ANALYSIS

A. "LEGISLATIVE AND ADMINISTRATIVE INFLUENCES"

Bighorn Canyon is a recreational area operated under the General Administrative Policies of the National Park Service. Public outdoor recreation is recognized as the dominant use.

1. Laws

a. Public Law 89-664, approved October 15, 1966, established Bighorn Canyon National Recreation Area. This legislation is of significance and influence in the day-to-day park management. It is suggested that the reader study the law for a comprehensive understanding of parameters under which management must function. (See Appendix A.)

b. The Act of April 11, 1972, (Public Law 92-272, 86 Stat. 120) increased the land acquisition cost ceiling of Bighorn Canyon National Recreation Area to \$780,000. The increase was authorized to enable completion of acquisition of lands and easement needed for the transpark road; to acquire the historic sites of Fort C. F. Smith, Hayfield Fight, and the Medicine Wheel;

and to acquire land needed for development of a campground along Bighorn River below the Afterbay Dam. (See Appendix B.)

c. Management and development decisions and actions must be in accordance with the provisions of the Historic Preservation Act of 1966, the National Environmental Policy Act of 1969, and Executive Order 11593 of May 13, 1971.

2. Agreements

Memorandums of agreement are on file in the Chief Ranger's Office at Park Headquarters, with a duplicate set on file in the south district. Only those agreements with park responsibility for maintenance are listed.

- a. Memorandum of Agreement between the Crow Indian Tribe of Montana and the National Park Service of the Department of the Interior to facilitate establishment, development, administration, and public use of the Bighorn Canyon National Recreation Area. This is a 50-year agreement signed by the Crow Tribe, Secretary of the Interior, and the National Park Service in 1967. The Agreement is identified by No. CA-Secy-67-01. (See Appendix C.)

On April 10, 1976, the Crow Tribal Council passed Resolution No. 76-32, which rescinds the original Memorandum of Agreement. In a December 5, 1977, letter to the Chairman, Secretary of the Interior Cecil D. Andrus acknowledged receipt of this resolution by his predecessor and that he supported the position taken by Mr. Kleppe as follows, "Secretary of the Interior Kleppe wanted this matter resolved at the field level and asked that the Chairman and Superintendent negotiate a revised and mutually acceptable Memorandum of Agreement rather than scrap a valid document that would leave an operational void." Formal negotiation efforts began on October 24, 1978. On January 17, 1980, a revised Draft Memorandum of Agreement was completed and submitted to the tribal leaders and to Washington for further consideration.

The preceding development should be expanded here. The proposal for the transpark road and for Pretty

Eagle Lodge came into disfavor with the Crow Tribe in the early 1970's during the public involvement stages of the environmental impact statement process. The Tribal Council passed Resolution No. 73-06 on October 13, 1973, withholding approval of construction of the transpark road over reservation lands. They were backed in this effort by the Montana Wilderness Association and the Montana Wildlife Federation. Resolution No. 76-32, which rescinded the Memorandum of Agreement, reaffirmed their opposition to the construction of the transpark road.

In the December 5, 1977, letter from the Secretary, a moratorium was placed on any further development on Crow lands within the recreation area until the issue of differences in the Memorandum of Agreement could be resolved. Recognizing this, the National Park Service determined that Crow Reservation lands within the recreation area would not be included in the General Management Plan except to show the existing boundary and that this land would not be subject to National Park Service planning without permission of the Crow Tribal Council and the Secretary of the Interior.

Memorandum of Agreement between the Bureau of Reclamation and the National Park Service relating to the development and administration of that portion of the Yellowtail Unit within the Bighorn Canyon National Recreation Area.

On December 31, 1964, the Bureau of Reclamation and the National Park Service entered into a cooperative agreement to coordinate the reclamation activities of the Bureau of Reclamation with the recreation activities of the Service. This agreement was superseded by an agreement of March 9, 1972, (Bureau of Reclamation Contract No. 14-06-600-453A) which specifies the responsibilities of the respective agencies relating to the development and administration of the portion of the Yellowtail Unit (See Drawing RS/YELL-7104) within the boundaries of the recreation area. (See Appendix D.)

- c. General Plan for Fish and Wildlife Management, Yellowtail Reservoir, Wyoming, Cooperative Agreement between the National Park Service and the State of Wyoming, Wyoming Game and Fish Commission relating to Management in the Yellowtail Habitat Management Unit Lands within Bighorn Canyon National Recreation Area.

The above agreement, consummated in 1971, made available 11,600 acres of Bighorn Canyon National Recreation Area lands, known as "Area B," to the Wyoming Game and Fish Commission for administration and the conservation and management of wildlife. This agreement is identified by No. CA-Secy-67-02. (See Appendix E.)

- d. Cooperative Navigational Aids Agreement between the National Park Service and the United States Coast Guard.

In June 1972, the National Park Service entered into a Cooperative Navigational Aids Agreement with the U.S. Coast Guard to cooperate in the establishment, operation, and maintenance of a system of navigational aids conforming to established standards. This agreement was revised April 4, 1977, to clarify responsibilities between the two agencies. The agreement applies to and is restricted to aids to navigation and regulatory markers and can be identified by No. 1320-82-02.

- e. Cooperative Agreement between the Bureau of Indian Affairs, Crow Indian Agency, and the National Park Service, Bighorn Canyon National Recreation Area, for Forest and Range Fire Suppression.

This 1985 Agreement is a general clarification of responsibilities for fire management on Crow Indian Reservation land within and immediately adjacent to the recreation area. It can be identified by No. CA-1320-85-02.

- f. Memorandum of Agreement between the National Park Service and the Advisory Council on Historic Preservation of Montana for the Bad Pass Trail and Pretty Creek Archeological Site.

In August 1974, the National Park Service entered into a Memorandum of Agreement with Advisory Council on Historic Preservation and the Montana State Historic Preservation Officer detailing mitigating measures the Service will implement to minimize impacts on the Bad Pass Trail and Pretty Creek Archeological Site caused by construction of Bad Pass Road. This Agreement is exempt from NPS-20, and has Section 106 Clearance and consequently carries no number.

- g. Memorandum of Agreement between the National Park Service, U.S. Department of the Interior, and the Bighorn Canyon Natural History Association.

This 1978 Agreement was initiated to provide interpretive and educational services to the visiting public and to assist the Service in providing the same. The agreement can be identified by No. CA-1320-78-01.

- h. Memorandum of Agreement between the National Park Service and the Town of Lovell, Wyoming, for water and sewer service and for the construction of sewer and water facilities to serve the Bighorn Canyon Visitor Center.

The above agreement was consummated in 1976 and signed by the Mayor of Lovell, Wyoming, and the National Park Service Rocky Mountain Regional Director. The agreement can be identified by the No. CA-1320-76-02.

3. Permits

Special-use permits are kept on file in the Chief Ranger's office and a duplicate set is maintained by the Resource Management Specialist in Lovell, Wyoming. Currently, there are 16 active permits which vary in number from year to year. (See Appendix F.)

4. Miscellaneous Contracts and Agreements

Information pertaining to this subject can be located in the park library and in the main files at Park Headquarters, Fort Smith, Montana. (See Appendix G.)

5. Jurisdiction

The National Park Service had proprietary jurisdiction within Bighorn Canyon National Recreation Area until

1980. On April 29, 1980, the State of Montana ceded concurrent jurisdiction (Montana House Bill 666) to the United States of all federally-owned lands within Bighorn Canyon National Recreation Area as established by Public Law 89-664 (80 Stat. 913). It should be noted that no Crow Indian Reservation "Added Lands" were included in the change to concurrent jurisdiction. On jurisdiction matters, the National Park Service will be guided by the Interior Field Solicitor's opinion of August 7, 1973. (See Appendix H.)

In response to the Crow Indian Law and Order Committee's quest to develop a Crow Law and Order Code in November of 1977, cooperative efforts were initiated to clear up and redefine jurisdiction within the recreation area. The Tribal Committee challenged the opinion that the recreation area lands in Big Horn County, Montana, had been withdrawn from the Crow Indian Reservation. On February 1, 1978, Field Solicitor Al Bielefeld prepared a lengthy brief concerning the "Law Enforcement Jurisdiction in Bighorn Canyon National Recreation Area." This traced the legal background, the issues, the applicable laws, and possible courses of action. Before the Tribe could contest the brief, the Supreme Court ruled on the Oliphant case. "On March 6, 1978, the Supreme Court of the United States ruled that Indian Tribal Courts do not have inherent criminal jurisdiction unless specifically authorized to do so by Congress." (See Oliphant vs Suquamish Indian Tribe, et al No. 76-5729.)

B. RESOURCES

Bighorn Canyon National Recreation Area is best known for the 71-mile Bighorn Lake. The lake was formed upon completion of the Yellowtail Dam which was constructed on the Bighorn River as part of the Missouri River Basin Project. The 12,700-acre fresh water reservoir, however, comprises only a portion of the total 120,284-acre recreation area. Bighorn Canyon offers a diverse landscape of valleys, upland prairies, forests, mountains, and deep canyons. Fishing, limited hunting, spectacular geological formations, archeological sites, cultural sites, and a great diversity of plants and animals are among the attractions. The recreation area is in south-central Montana and northwest Wyoming and includes portions of three counties. It is bordered on the west by Custer National Forest and on the east by Bighorn National Forest. Public domain land managed by the Bureau of Land Management and Crow Indian Tribal

lands surround the remainder of the park. Bighorn Canyon National Recreation Area, which is within the north end of a large arid basin at the northeast end of the cold Desert of Wyoming, is characterized by climatic and geologic conditions which have permitted development of habitat for unique plant species. These geologic and climatic processes have contributed to creating a high number of narrow endemics. Many species normally associated with the Great Basin extend to their far northern limits here.

These lands experience low rainfall, low humidity, and plentiful summer sunshine; marked temperature fluctuations are the norm. Spring is cloudy and cool. The last frosts occur in May or June. In summer, cloudiness is restricted to afternoons and evenings when thunderstorms are most likely to occur. Daytime temperatures can reach into the high 90's, but the nighttime temperatures seldom remain above 70 degrees. Rainy weather is not normally prolonged. Fall is accompanied by killing frosts as early as September. Snow can arrive as early as September but seldom persists on the ground until after mid-November. Winter thaws caused by chinook winds from the southwest mountains are common. Strong winds generally can be expected at any season of the year and have been recorded as high as 75 miles per hour at Fort Smith, Montana.

1. Natural Resources

The reservoir offers considerable opportunity for sportfishing. Many species of game fish have become established in Bighorn Lake. Examples are walleye, rainbow, cutthroat and brown trout, black crappie, yellow perch, and ling.

Terrestrial animals are also varied with species normally associated with the desert present in addition to the prairie and mountain species. Elk and bighorn sheep are sometimes seen along the lakeshore. Mule deer are common in the canyon breaks and upland areas. Whitetail deer, while less frequently seen, utilize the river bottoms. Mammals found here include but are not limited to the yellow-bellied marmot, porcupine, spotted and striped skunks, badger, mountain lion, and bobcat. Beavers are common in the streams and other furbearers such as the mink and muskrat are sometimes spotted by alert observers. The largest carnivore, the black bear (while not numerous), is sighted several

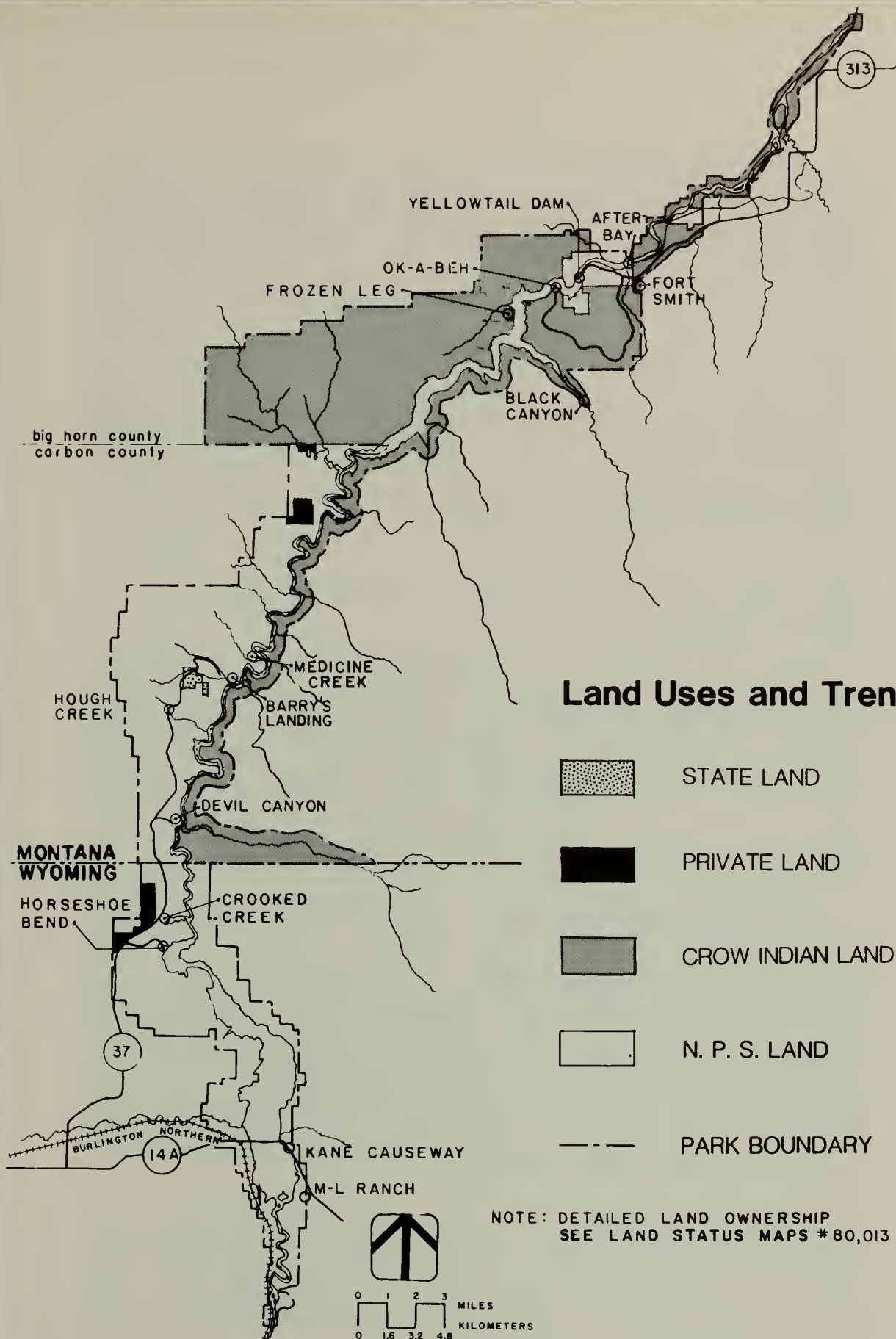
times each year. Bird species are many and varied with the large raptors being the most noticeable. Wild horses, while not native, have been present for a long time and are afforded special protection with establishment of the Pryor Mountain Wild Horse Range in 1969.

2. Cultural Resources

Evidences of past cultures dating back 10,000 years have been substantiated through archeological investigations as recently as 1981. Over 2,000 sites have been recorded and 136 identified as having significant cultural material of scientific importance. Features including pictographs, petroglyphs, rock fortifications, vision-quest sites, occupation and quarry sites, Medicine Wheel, and bison jumps have been identified. Sites vary from single features to large occupation sites.

Historical sites--with physical features remaining--number six. Circa 1880-1890 ranches of various descriptions include the Mason-Lovell Ranch, which heralded the beginning of the cattle industry in northern Wyoming; the Cedarvale or Hillsboro Dude Ranch which was the first known attempt to utilize the area from a recreation standpoint; the Caroline Lockhart Ranch, which was established in the early 1900's and later acquired by this famous newspaper woman; the Sorenson Ranch, which is typical of ranches throughout Montana. The Ruth Aldrich and Chesmore Ranches have been evaluated and because of minimal historic importance and physical features warrant no further study or interpretive emphasis.

Other historical sites include Fort C.F. Smith which was garrisoned from 1866-1869 to protect the Bozeman Trail route to the Virginia City (Montana) and Idaho gold fields. Also, a portion of the Bozeman Trail; the Bad Pass Trail, which was used by different Indian Tribes for perhaps the last 10,000 years and fur trappers and cattle ranchers after that; the Wood Road that was used to haul logs from the mountains for construction of Fort C.F. Smith; and the Bighorn Canal Headgate which was under construction from 1892 to 1904 and used until Yellowtail Dam was completed in 1965. The Fort Smith Lime Quarry where stone was quarried for Fort Smith and Fort Custer is also a historic resource. Contemporary cultural resources are abundant in that the recreation area is situated partly on the Crow Reservation.



BIGHORN CANYON NATIONAL RECREATION AREA

United States Department of the Interior - National Park Service

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C. LAND USE TRENDS

1. The dominant land use within the region is grazing in the upland prairies and foothill mountain zones and irrigated farming in the valleys. Most of the land adjacent to the Wyoming portion of the recreation area is federally owned and managed by the Bureau of Land Management; while the land adjacent to the Montana portion is in the Crow Reservation. More than half of the land lies in public ownership and is accessible.

2. Increased reclamation of arid lands through irrigation poses a future threat to the recreational potential of Bighorn Lake. Estimates of water volume taken for irrigation on the Shoshone and Bighorn Rivers are available and the growing need for agriculture will result in a decreased flow into the Bighorn Lake. Wildlife and recreation demands on water must be considered along with industry and agrarian needs. Water rights are now being adjudicated in the States of Montana and Wyoming.

3. The subdivision of private land adjacent to the recreation area and within it prompted the 1975 Bighorn Subdivision Study prepared by the Regional Planning Office, Basin, Wyoming. The study points to the trend for accelerated subdivision of land as a result of population shifts and increases. Although housing starts have been increasing on the periphery of the park, the recent downward economic trend has had a dampening effect on this activity.

4. In 1968, the Secretary of the Interior established the Pryor Mountain Wild Horse Range. The initial range encompassed some 32,000 acres, mostly on Bureau of Land Management administered lands, but 9,100 acres of the horse range lie within the boundaries of the recreation area. In September 1975, the range was expanded to include an additional 2,292 acres. The horse range is administered by the Bureau of Land Management, Billings District. The carrying capacity of the range has been established at 120 adult animals. The primary mission of Bureau of Land Management is to preserve and perpetuate this remnant herd.

5. Mining outside the recreation area boundaries consists primarily of the extraction of bentonite, uranium, and building stone. The excavation of bentonite continues to scar the landscape on the southern boundary, and a bentonite processing and

shipping plant sends plumes of dust into the air about 8 miles south of the recreation area entrance. Valid bentonite claims lie within the recreation area south of Horeseshoe Bend, although most of the high quality bentonite has been extracted under special-use permit. Five valid unpatented placer claims still exist with the claimant being American Colloid Company.

6. During the spring of 1980, N.L. Baroid Corporation began construction of a bentonite crushing, grinding, and processing plant immediately adjacent to the park boundary just west and north of Highway 14A Causeway in T.56, R.94W., Section 6. The plant will have a capacity of 300,000 tons annually and a life expectancy of 20 to 40 years. The plant is presently operating at a minimum capacity as a result of lowered demands for bentonite.

7. Uranium prospectors comb the hills and stake claims on public domain land in Wyoming adjacent to the recreation area. Prospectors unfamiliar with recreation area land status have staked and attempted to file claims in the recreation area requiring a constant vigilance for this activity by recreation area personnel. Public Law 94-429 of September 28, 1976, provides for the regulation of mining activity within--and repeals the application of mining laws to--areas of the National Park System.

8. A building stone called dryhead marble is intermittently quarried near Deadman Creek. The quarry is outside the recreation area boundary, but hauling of rock has traditionally been south on the county road.

9. There are 68 tracts encompassing 10,659 acres of recreation area land, mostly in Wyoming, with outstanding mineral rights. Although this land has potential for a variety of minerals, the only mining activity has been sand and gravel. Although there were once three active sand and gravel mines in this area, there is currently none. It is likely that sand and gravel mining will resume once a suitable location is identified and approved by the National Park Service.

10. At the south end of Bighorn Lake, the Wyoming Game and Fish Commission manages the 18,000 acre Yellowtail Wildlife Habitat area. Some 11,600 acres lie within the recreation area. The principal mission of the Commission is to expand recreational hunting and fishing opportunities. Some of the activities carried

on by the Commission is attaining their objectives include grazing, farming, irrigation projects, developing travel lanes, stock ponds, fish planting, bird planting, and developing waterfowl nesting sites.

A listing of non-Federal lands within the boundary of Bighorn Canyon National Recreation Area is included. (See Appendix I.)

11. In 1985, the National Park Service assumed responsibility for management of cattle grazing on the Dryhead Allotment which is within the recreation area but had been managed by the Bureau of Land Management. Use of the allotment by ranchers has been generally decreasing for the last 5 years and the National Park Service Grazing Management Plan incorporated a 42.5 percent overall reduction from previous AUM levels.

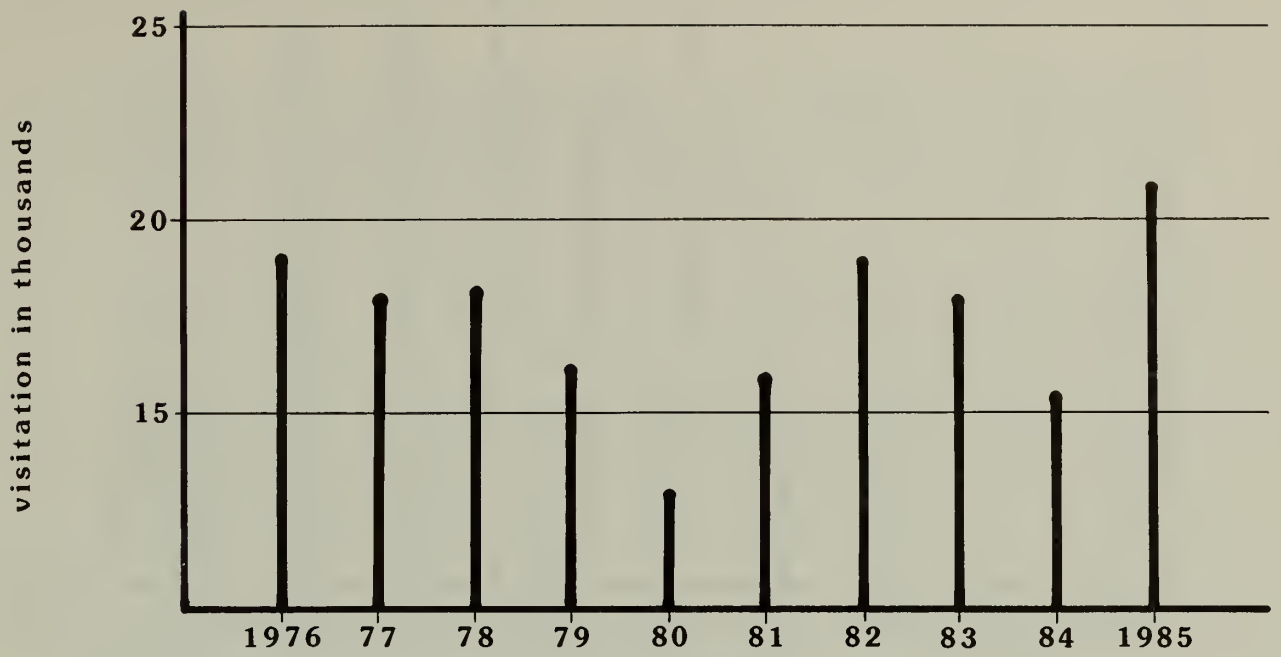
D. VISITOR USE ANALYSIS

Approximately 75 percent of the annual visitation at Bighorn Canyon is local residents living within a 150-mile radius. A large percentage of the local visitors are from the two largest cities--Billings, Montana, and Sheridan, Wyoming. The "average" visitor comes to boat, waterski, and/or fish. The heaviest use occurs on weekends with a buildup beginning Friday night. A gradual decrease begins mid-day on Sunday with a resultant low level reached on Sunday evening. Weekday use varies but tends to be retired persons, persons with days off during the week, or vacationers. The daily visitor spends an estimated 6 hours in the park while campers spend an average of 12 hours per visit.

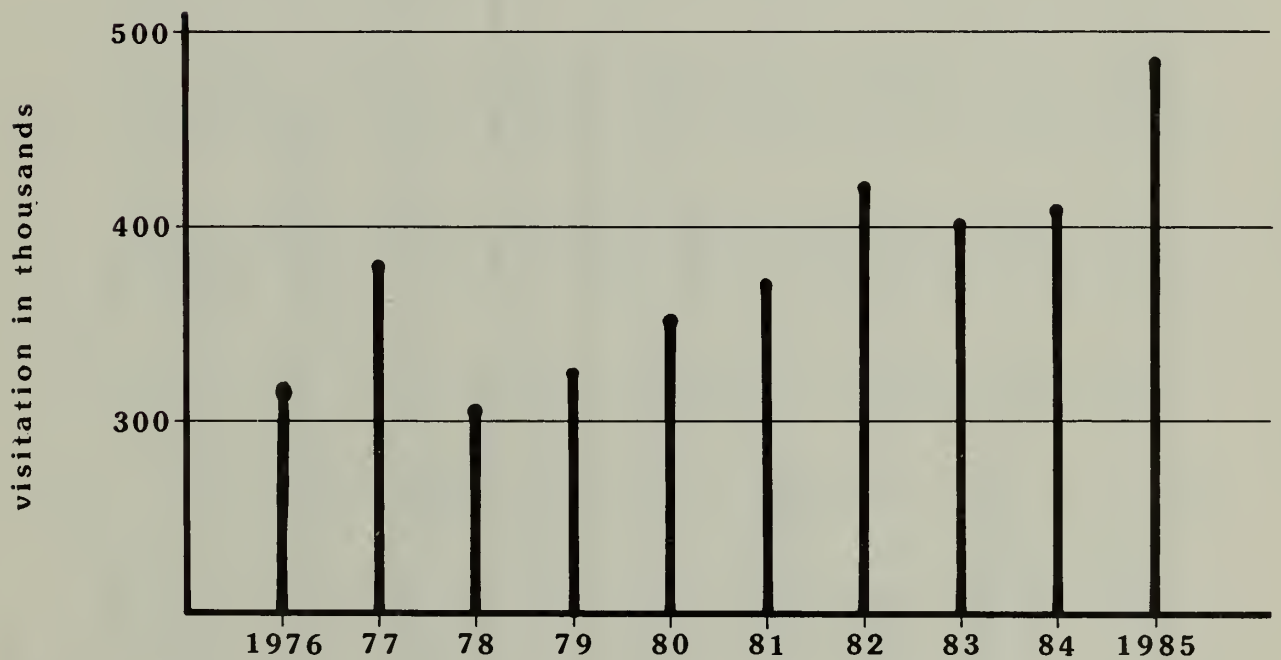
E. FACILITIES AND EQUIPMENT ANALYSIS

Detailed information pertaining to facilities and equipment is in the main files, Park Headquarters, Fort Smith, Montana. A listing of appropriate files is as follows.

- D30 - Roads and trails inventory
- D34 - Buildings inventory
- H38 - Buildings (historical)
- D46 - Other structures
- D50 - Services and utilities
- D66 - Signs, markers, and memorials
- S24 - Communications equipment inventory
- S7412 - Equipment inventory.

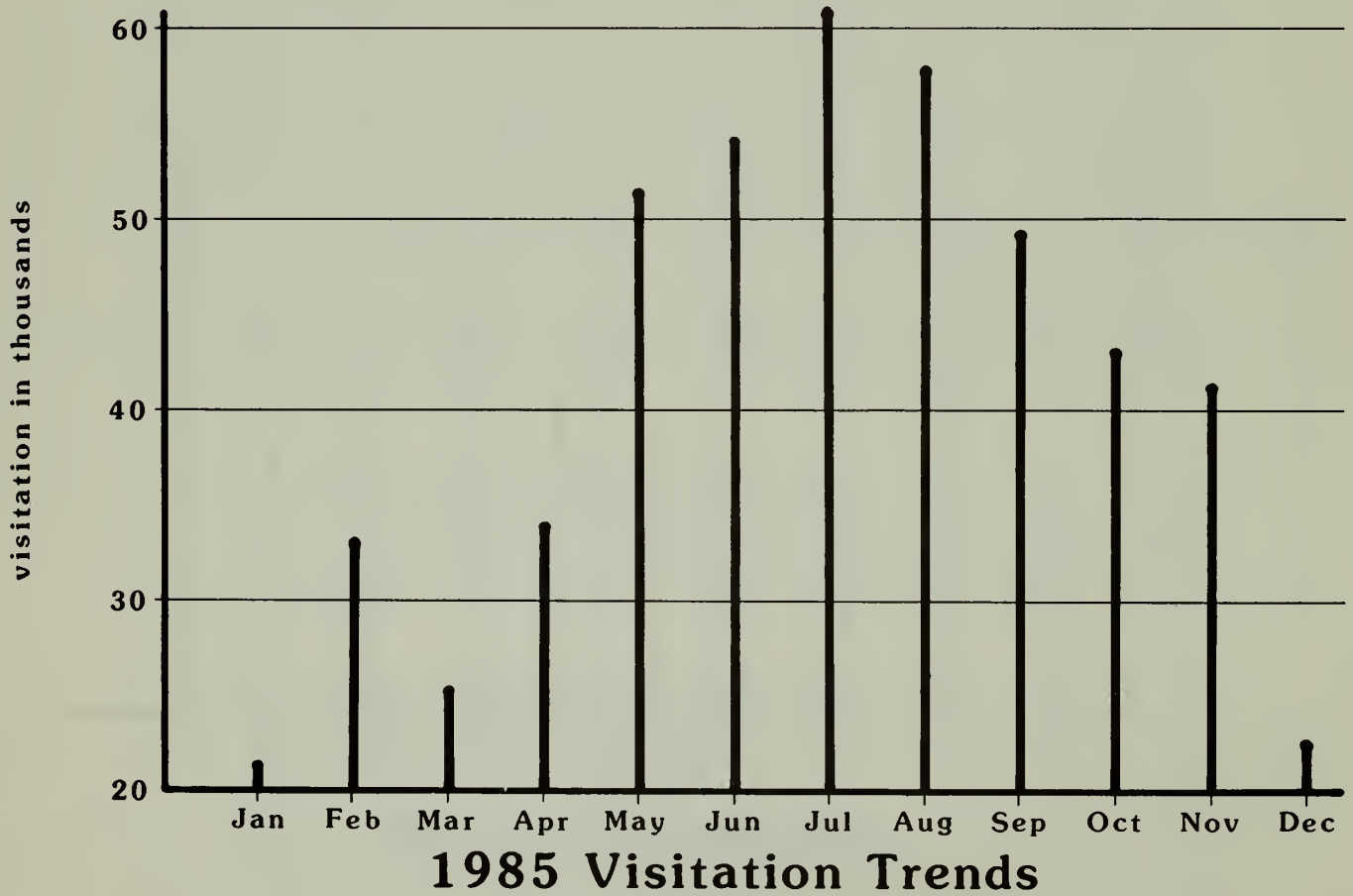
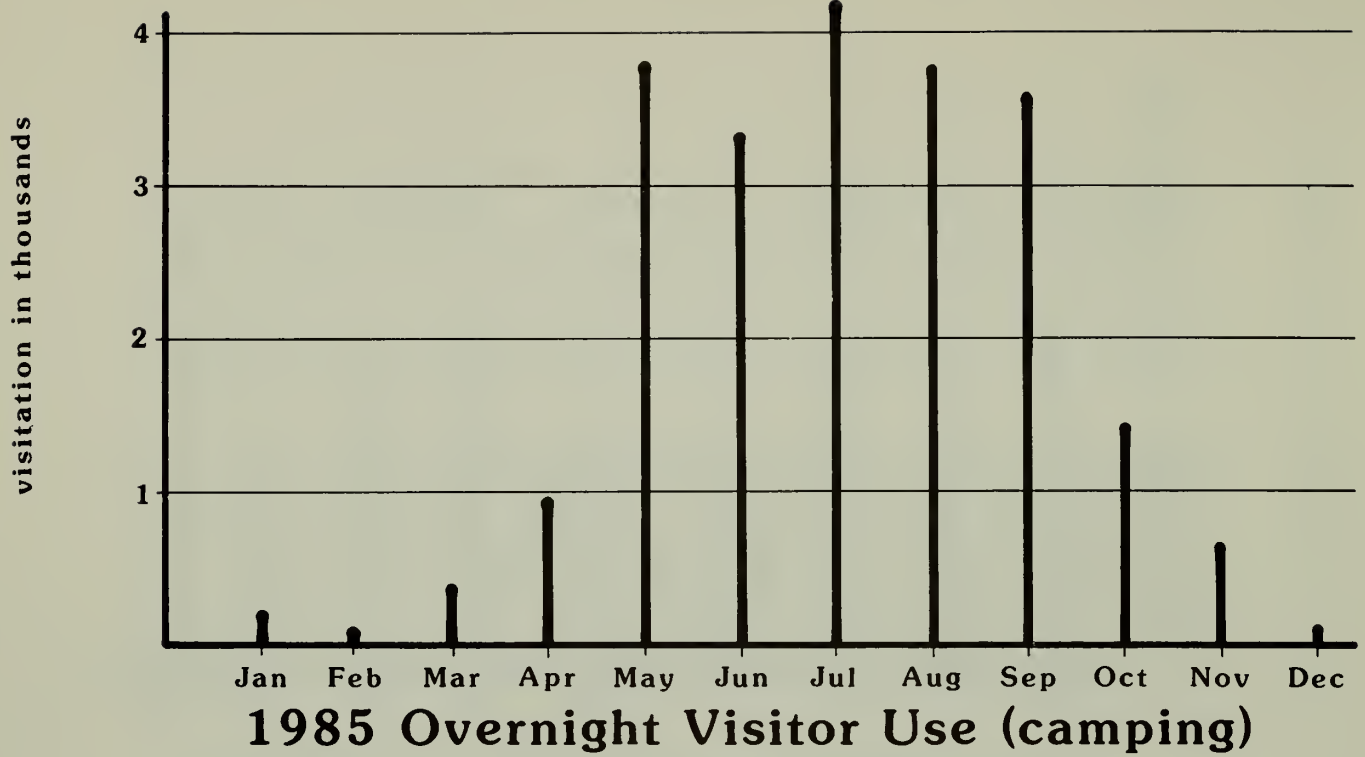


Overnight Visitor Use (camping)



Visitation Trends

Bighorn Canyon National Recreation Area



Bighorn Canyon National Recreation Area

Additional information can be found in building folders, consolidated inventories, computer printouts, and planning documents.

1. Roads and Trails

Both primary (68 miles) and secondary (12 miles) roads are in good to excellent condition with the exception of campground and day-use roads. Campground and day-use roads will need major repairs and/or replacement within the next 3 years. The park maintains a 4,000-foot airstrip at Fort Smith. The airstrip is in good condition. The airstrip is not lighted and at this time; there are no plans to install lights.

Trails are in fair to poor condition. New trails are needed. (See General Management Plan.)

2. Buildings and Structures

The park operates the maintains the first active solar Visitor Center built for the National Park Service. This 17,000-square-foot building is at Lovell, Wyoming.

Park buildings, in general, are in fair to good condition. More building space is needed at Ok-A-Beh and Barry's Landing, and a 7,200-square-foot maintenance shop facility is proposed for Horseshoe Bend.

Concessions rental docks at Horseshoe Bend need to be replaced and additional docks are needed for overnight boaters.

The house, barn, and two storage sheds at the Lind Ranch are maintained through a maintenance/lease agreement with the private sector.

3. Buildings and Structures (Historic)

The park has 33 historic buildings and structures. Most are in need of stabilization work. The Cultural Resource Management Plan identifies needs and alternatives related to cultural resources.

4. Communications System

The park radio system is considered to be very good and provides adequate coverage of the park. The base station at the Yellowtail Visitor Center was relocated to the upper switchyard in 1985.

5. Equipment

Major equipment is adequate with the exception of a large front-end loader for the South District. A new motor grader was purchased in 1986.

Two Bertram boats used as patrol craft need to be replaced in the next 2 years. These boats were purchased in 1968.

Vehicles are leased from the Billings General Services Administration (GSA) Motor Pool. Service has been very good and this arrangement should be continued. A listing of park purchased boat equipment and GSA leased vehicles is included. (See Appendix J.)

F. STATUS OF PLANNING

At the present time, Bighorn Canyon has a current General Management Plan (approved in 1981) and other planning documents such as Interpretive Prospectus, Black Bear Management Plan, Wilderness Study, and a Natural Resource Management Plan which are current. Other plans and studies needed can be found in the Outline for Planning Requirements. (See Appendix K.)

G. EXISTING MANAGEMENT ZONING

For a more thorough breakdown and explanation of the management zones, see General Management Plan, June 1981, Bighorn Canyon National Recreation Area. This document is available at Park Headquarters in Fort Smith, Montana. The following is a clarification of the four major management zones.

1. Natural Zone

The natural zone identifies those lands and waters that are managed to conserve natural resource values and processes. Uses that do not adversely affect these values and processes are permitted.

2. Historic Zone

The historic zone identifies those cultural resources managed for preservation, protection, or interpretation.

3. Park Development Zone

The park development zone includes all National Park Service-controlled development in the recreation area. All developed areas are included within this zone with the exception of Black Canyon and Ok-A-Beh, which are too small to be accurately shown on the map. In addition, all park roads, residential areas (non-historic), and associated developments are included.

4. Special-Use Zone

The special-use zone delineates those areas the management of which is either wholly or partially outside the jurisdiction of the National Park Service yet is within the boundaries of the recreation area.

MANAGEMENT ZONES

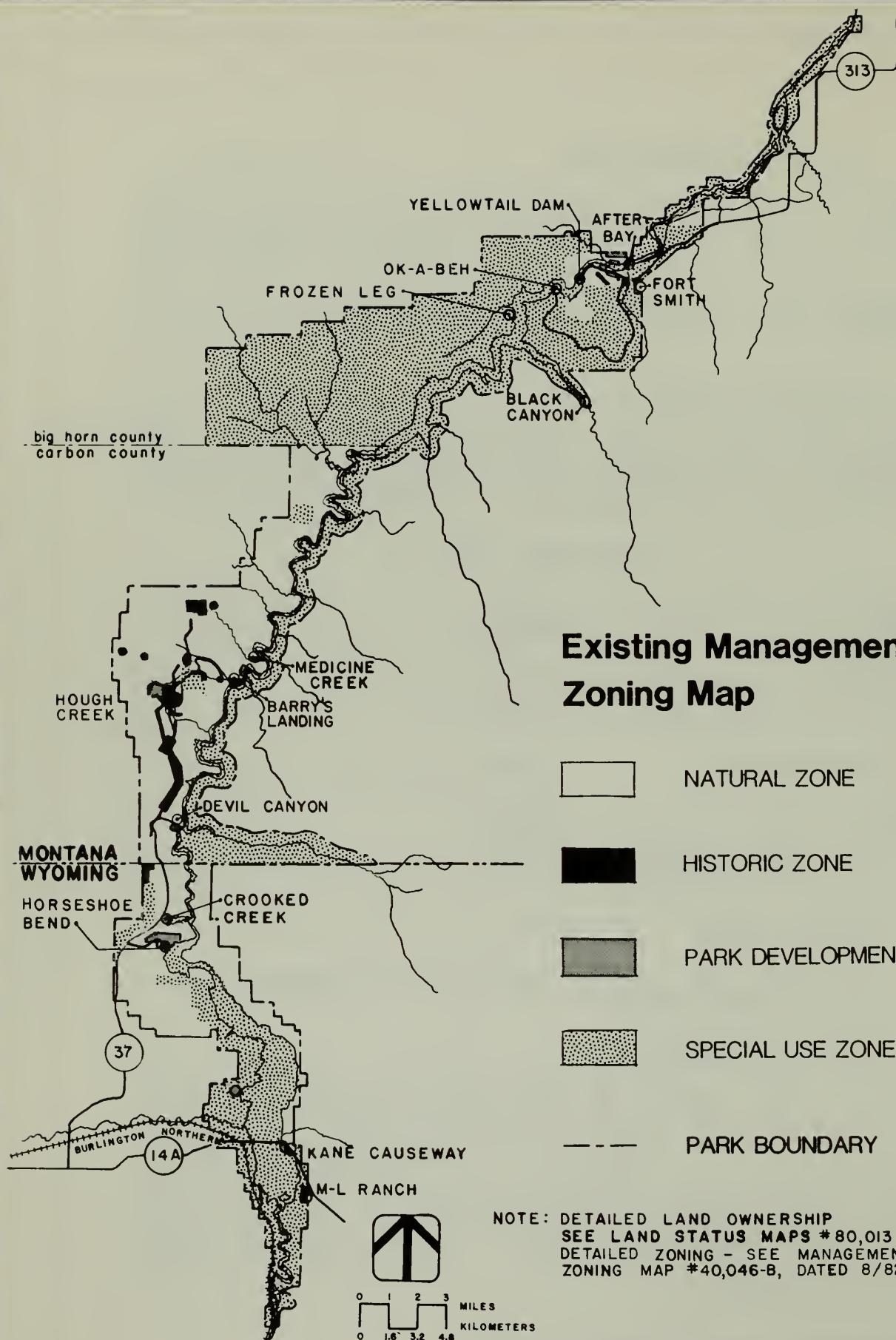
<u>ZONE</u>	<u>ACREAGE</u>	<u>PERCENTAGE OF PARK</u>
Natural	48,101	39.9 percent
Historic	1,922	1.6 percent
Park Development	791	0.7 percent
Special Use	<u>69,470</u>	<u>57.8 percent</u>
PARK TOTAL	120,284	100.0 percent

IV. MAJOR ISSUES

A. PROVIDE FOR VISITOR RECREATIONAL OPPORTUNITIES, SAFETY, AND PROTECTION

1. Marina Concessions

Gas and other services for boaters can be obtained only at Horseshoe Bend (south end) and Ok-A-Beh (north end). Because of a lack of docking and concession facilities, both operations are marginal and as a result reliable operators are very difficult to locate. Boaters have been stranded due to unreliable services. Boaters must pull their boats at the end of the day because of no overnight docking facilities. Ok-A-Beh is operated only on weekends.



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2. Reservoir Fluctuations

Water levels in the reservoir are controlled by the Bureau of Reclamation which has primary responsibility for operation of the Yellowtail Project. Levels can fluctuate as much as 40 feet which affects fishing conditions, concessions operations, boat launching, and accumulation of debris on the lake. Spring runoffs also add to the debris problem.

3. Unstable Shoreline

Shoreline slumping in Bull Elk Basin, although now stabilized to a great extent, continues to be a cause of concern. The shoreline is monitored by the Bureau of Reclamation.

4. Black Bears

Black bears and visitors occasionally come in conflict at Black Canyon boat-in campground.

5. Heat and Wind Exposure at Campground

The only Class A campground in the recreation area is at Horseshoe Bend; it sits atop an open, windy knoll. The lack of trees or shade shelters exposes campers to extremely hot and windy conditions. As a result, this 126-site campground is underutilized.

6. Inadequate Camping Facilities

Inadequate camp sites at the North District generates overflow camping around the Afterbay area.

7. Inadequate Lifeguard Protection

There is no lifeguard protection at Ok-A-Beh where swimmers use a small rock beach in the vicinity of the boat ramp. Although this is not a designated swimming area, common use occurs as this is the only access to the lake by non-boaters. Permanent personnel are used to supplement the one temporary lifeguard at Horseshoe Bend.

8. Lack of Access

The north and south end of the lake are geographically isolated as there is no connecting roads. Visitors are required to drive 180-plus miles out of their way to see both ends of the park.

B. PRESERVE, PROTECT, AND INTERPRET NATURAL RESOURCES

1. Lake Water Quality

Heavily enriched irrigation return flows into the rivers feeding the upper (south) end of the lake causing an annual bloom of algae. Heavy silt loads also contribute to adverse impacts on water quality.

2. Range Conditions

Range is impacted by wild horses (Pryor Mountain Wild Horse Range established by Secretarial Order in 1969), and cattle grazing on the Dryhead Allotment. Both horses and cattle are managed to keep adverse impacts to a minimum.

3. Baseline Inventories and Research

Baseline inventories for vegetation and vertebrate animals have recently been completed. An invertebrate inventory is needed along with special studies related to specific wildlife and plant populations such as Bighorn Sheep in order to monitor and, if necessary, manage segments of the ecosystem.

4. Surface Mining

Limited surface mining is occurring which creates visual scars on the landscape and which is in conflict with wildlife use. There are outstanding mineral rights on 10,569 acres within the park.

5. Pesticides

Pesticide use--on lands adjacent to the park and on the Yellowtail Wildlife Habitat--impacts plant and animal life within the park.

6. Wildlife Habitat

The 11,800-acre Yellowtail Wildlife Habitat is regulated by man to enhance specific environments for production of target species of wildlife as opposed to a more natural environmental approach for other areas of the park.

7. Noxious Weeds and Exotic Plants

Investigations of noxious weeds and exotic plants have been identified. Present control methods are inadequate and the scope of the problem is not fully known.

8. Boundaries

Inadequately identified exterior boundaries of the park contribute to confusion by the user and hamper land management activities.

9. Surface Scars

Numerous surface scars exist which cause visual degradation of otherwise pristine vistas. Examples include old roads, mining location pits, and other remnants of prior occupation and land use.

C. PRESERVE, PROTECT, AND INTERPRET THE CULTURAL RESOURCES, BIGHORN CANYON

1. Historic Buildings and Structures

The park has 32 historic buildings, many of them are log structures related to early ranching days. Some are on, or have been nominated to the National Register. Most structures are in need of preservation maintenance and rehabilitation work.

2. Wayside Exhibits

Some 18 wayside exhibits have been identified as needed along the Bad Pass Road which would interpret the natural and cultural history of the area. To date, only one exhibit has been funded.

3. Research and Studies

The park's administrative history, chronology of Crow Tribe relations, and studies of historic and prehistoric resources are needed.

4. Interpretation of Resources

Both historic and prehistoric cultural sites are some distance from Park Headquarters and visitor centers which requires a ranger to provide onsite interpretation or site bulletins or wayside exhibits.

Except for occasional special group trips, rangers are not available for onsite interpretation. There are no waysides at Hillsboro, Sorenson, or Lockhart Ranch sites or at the Kane Cemetery site.

D. PROVIDE FOR MANAGEMENT AND ADMINISTRATION OF BIGHORN CANYON NATIONAL RECREATION AREA

1. Lack of Boater Facilities

The 70-mile long Bighorn Lake is used by 14,000 boat days annually. Currently, there is a small 12-slip marina dock at Horseshoe Bend and no docks at Ok-A-Beh. As there are no overnight docking facilities, boaters must pull their boats from the water after use. Concession operators have no way to expand their business to better serve the boating public. There is a significant public demand for docking facilities.

2. Transpark Road

There is no connecting road between the north and south districts of the park and no vehicle access to viewpoints along the rim of the canyon.

3. Crow Tribe Concessions

The Crow Tribe has rights to all concession businesses adjacent to the lake on the north end of the park. To date, they have not elected to develop concessions.

4. Memorandum of Agreement with Crow Tribe

Numerous meetings have been held with the Crow Tribe in an effort to develop a new Memorandum of Agreement. Differences of opinion, concerns, and misunderstandings related to planning, development, objectives, authorities, and jurisdiction have resulted in no progress to date.

5. Moratorium on Development

Until there is a new agreement with the Crow Tribe approved by the Crow Tribal Council, there is to be no development on Crow Tribal added lands.

6. National Park Service Facilities at Horseshoe Bend

A shop storage and maintenance complex and a seasonal housing unit is needed at Horseshoe Bend. Present

facilities are a "make do" ad-hoc conglomeration of house trailers and small storage buildings.

7. Mining Claims

There are five mining claims within the exterior boundary of the recreation area and 68 tracts covering 10,659 acres with outstanding mineral rights. Some have been used for extraction of gravel and bentonite. Mining produces surface scars from access roads and pits.

8. Complex Land Base

The recreation area consists of U.S. Congressional Take lands; added lands consisting of Crow Tribal Trust lands, allotted lands, and private property; school lands; joint-camp lands; private property; Yellowtail Wildlife Habitat lands; Dryhead Allotment lands; and the Pryor Mountain Wild Horse Range lands. Management, literally, has to know where it stands. The land base and related uses is confusing to administrators, visitors, and local neighbors and communities.

9. Joint Camp Operation

The National Park Service shares the Fort Smith Government Camp with the Bureau of Reclamation. The camp is used for housing, headquarters, and maintenance shops. The Bureau has the primary responsibility for maintenance and operation of the camp. The National Park Service and Bureau need to examine their respective roles related to insuring an efficient camp operation which maintains high operational standards. The National Park Service resources which are available for camp maintenance are limited.

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APPENDIX A

PUBLIC LAW 89-664



Public Law 89-664
89th Congress, S. 491
October 15, 1966

An Act

To provide for the establishment of the Bighorn Canyon National Recreation Area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to provide for public outdoor recreation use and enjoyment of the proposed Yellowtail Reservoir and lands adjacent thereto in the States of Wyoming and Montana by the people of the United States and for preservation of the scenic, scientific, and historic features contributing to public enjoyment of such lands and waters, there is hereby established the Bighorn Canyon National Recreation Area to comprise the area generally depicted on the drawing entitled "Proposed Bighorn Canyon National Recreation Area", LNPMW-010A-BC, November 1964, which is on file in the Office of the National Park Service, Department of the Interior.

Bighorn Canyon
National Recreation
Area, es-
tablishment.

(b) As soon as practicable after approval of this Act, the Secretary of the Interior shall publish in the Federal Register a detailed description of the boundaries of the area which shall encompass, to the extent practicable, the lands and waters shown on the drawing referred to in subsection (a) of this section. The Secretary may subsequently make adjustments in the boundary of the area, subject to the provisions of subsection 2(b) of this Act, by publication of an amended description in the Federal Register.

Boundaries.
Publication in
Federal Register.

SEC. 2. (a) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or otherwise, lands and interests in lands within the boundaries of the area. The Secretary is further authorized to acquire, by any of the above methods, not to exceed ten acres of land or interests therein outside of the boundaries of the area in the vicinity of Lovell, Wyoming, for development and use, pursuant to such special regulations as he may promulgate, as a visitor contact station and administrative site. In the exercise of his exchange authority the Secretary may accept title to any non-Federal property within the area and convey in exchange therefor any federally owned property under his jurisdiction in the States of Montana and Wyoming which he classifies as suitable for exchange or other disposal, notwithstanding any other provision of law. Property so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged. Any property or interest therein owned by the State of Montana or the State of Wyoming or any political subdivision thereof within the recreation area may be acquired only by donation or exchange.

Acquisition of
land.

(b) No part of the tribal mountain lands or any other lands of the Crow Indian Tribe of Montana shall be included within the recreation area unless requested by the council of the tribe. The Indian lands so included may be developed and administered in accordance with the laws and rules applicable to the recreation area, subject to any limitation specified by the tribal council and approved by the Secretary.

Crow Indian
tribal lands.

(c) (1) Notwithstanding any other provisions of this Act or of any other law, the Crow Indian Tribe shall be permitted to develop and operate water-based recreational facilities, including landing ramps, boathouses, and fishing facilities, along that part of the shoreline of Yellowtail Reservoir which is adjacent to lands comprising the Crow Indian Reservation. Any such part so developed shall be administered in accordance with the laws and rules applicable to the recreation

Recreational
facilities.

Pub. Law 89-664

- 2 -

October 15, 1966

"Shoreline."

area, subject to any limitations specified by the tribal council and approved by the Secretary. Any revenues resulting from the operation of such facilities may be retained by the Crow Indian Tribe.

(2) As used in this subsection, the term "shoreline" means that land which borders both Yellowtail Reservoir and the exterior boundary of the Crow Indian Reservation, together with that part of the reservoir necessary to the development of the facilities referred to in this subsection.

Administration.

SEC. 3. (a) The Secretary shall coordinate administration of the recreation area with the other purposes of the Yellowtail Reservoir project so that it will in his judgment best provide (1) for public outdoor recreation benefits, (2) for conservation of scenic, scientific, historic, and other values contributing to public enjoyment and (3) for management, utilization, and disposal of renewable natural resources in a manner that promotes, or is compatible with, and does not significantly impair, public recreation and conservation of scenic, scientific, historic, or other values contributing to public enjoyment.

(b) In the administration of the area for the purposes of this Act, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Service and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

Hunting, fishing areas.

SEC. 4. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the recreation area in accordance with the appropriate laws of the United States and of the States of Montana or Wyoming to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment, and except that nothing in this section shall impair the rights under other law of the Crow Tribe and its members to hunt and fish on lands of the Crow Tribe that are included in the recreation area, or the rights of the members of the Crow Tribe to hunt and fish under section 2 (d) of the Act of July 15, 1958. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Montana Fish and Game Department or the Wyoming Game and Fish Commission.

72 Stat. 363.

Appropriation.

SEC. 5. There is hereby authorized to be appropriated not more than \$355,000 for the acquisition of land and interests in land pursuant to this Act.

Approved October 15, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 1819 accompanying H.R. 2778 (Comm. on Interior & Insular Affairs).

SENATE REPORT No. 64 (Comm. on Interior & Insular Affairs).

CONGRESSIONAL RECORD:

Vol. 111 (1965): Feb. 10, considered and passed Senate.

Vol. 112 (1966): Sept. 19, considered and passed House, amended, in lieu of H.R. 2778.

Oct. 3, Senate concurred in House amendment with an amendment; House concurred in Senate amendment.

APPENDIX B

PUBLIC LAW 92-272



Public Law 92-272
92nd Congress, S. 2601
April 11, 1972

An Act

86 STAT. 120

To provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National park
system units.
Appropriation
ceilings increase;
boundary changes.

TITLE I—ACQUISITION CEILING INCREASES

SEC. 101. The limitation on appropriations for the acquisition of lands and interests therein within units of the national park system contained in the following Acts are amended as follows:

(1) Assateague Island National Seashore, Maryland: section 11 of the Act of September 21, 1965 (79 Stat. 824, 827) is amended by changing "\$16,250,000" to "\$21,050,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States)";

16 USC 459f-10.

(2) Big Hole National Battlefield, Montana: section 5 of the Act of May 17, 1963 (77 Stat. 18), is amended by changing "\$20,000" to "\$42,500";

(3) Bighorn Canyon National Recreation Area, Wyoming and Montana: section 5 of the Act of October 15, 1966 (80 Stat. 913) is amended by changing "\$355,000" to "\$780,000";

16 USC 460t-4.

(4) Effigy Mounds National Monument, Iowa: section 5 of the Act of May 27, 1961 (75 Stat. 88), is amended by changing "\$2,000" to "\$14,000";

(5) Fort Donelson National Military Park, Tennessee: section 3 of the Act of September 8, 1960 (74 Stat. 875), is amended by changing "\$226,000" to "\$454,000";

16 USC 428m.

(6) Lincoln Boyhood National Memorial, Indiana: section 4 of the Act of February 19, 1962 (76 Stat. 9), is amended by changing "\$1,000,000" to "\$1,320,000" and "\$75,000" to "\$395,000";

16 USC 431
note.

(7) Ozark National Scenic Riverways, Missouri: section 8 of the Act of August 27, 1964 (78 Stat. 608), is amended by changing "\$7,000,000" to "\$10,804,000"; and

16 USC 460m-7.

(8) Shiloh National Military Park, Tennessee: section 1 of the Act of July 3, 1926 (44 Stat. 826), is amended by changing "\$57,100" to "\$150,100".

TITLE II—DEVELOPMENT CEILING INCREASES

SEC. 201. The limitations on appropriations for acquisition and development of units of the national park system contained in the following Acts are amended as follows:

(1) Herbert Hoover National Historic Site, Iowa: section 4 of the Act of August 12, 1965 (79 Stat. 510), is amended by changing "\$1,650,000" to "\$3,500,000";

16 USC 461
note.

(2) Booker T. Washington National Monument, Virginia: section 4 of the Act of April 2, 1956 (70 Stat. 86), is amended by changing "\$200,000" to "\$600,000";

16 USC 45011
note.

(3) Johnstown Flood National Memorial, Pennsylvania: section 5 of the Act of August 31, 1964 (78 Stat. 752), is amended by changing "\$2,000,000" to "\$2,244,600"; and

16 USC 431
note.

(4) Wolf Trap Farm Park, Virginia: section 3 of the Act of October 15, 1966 (80 Stat. 950), is amended by changing "\$600,000" to "\$5,473,000".

16 USC 284b.

APPENDIX C

MEMORANDUM OF AGREEMENT

CROW TRIBE

AND

NATIONAL PARK SERVICE

Appendix C

MEMORANDUM OF AGREEMENT BETWEEN THE CROW INDIAN TRIBE OF MONTANA AND THE NATIONAL PARK SERVICE OF THE DEPARTMENT OF THE INTERIOR TO FACILITATE ESTABLISHMENT, DEVELOPMENT, ADMINISTRATION, AND PUBLIC USE OF THE BIGHORN CANYON NATIONAL RECREATION AREA

This agreement, which shall take effect upon its approval by the Secretary of the Interior, by and between the Crow Tribe of Montana (hereinafter referred to as "Tribe"), and the National Park Service of the Department of the Interior (hereinafter referred to as "Service").

WITNESSETH:

WHEREAS, The Congress has by legislation established the Bighorn Canyon National Recreation Area (hereinafter referred to as "Recreation Area"), consisting of certain recreation resources in the States of Montana and Wyoming on land acquired by the Bureau of Reclamation for the Yellowtail Dam and resulting reservoir on the Bighorn River and on other land adjacent thereto, all as generally depicted on the drawing entitled "Proposed Bighorn Canyon National Recreation Area" LNPW-010A-BC, November 1964, which is on file in the Office of the National Park Service, Department of the Interior; and

WHEREAS, Certain lands owned by the Tribe within the "proposed boundary" generally depicted on the attached map of November 1967, labeled "Exhibit A" and numbered BC-NPA-2002A, are desirable for inclusion in the Recreation Area, and the Congress has provided that no such

Appendix C

tribal lands may be included within the Recreation Area unless requested by the Council of the Tribe; and

WHEREAS, The Tribe has requested that the tribally owned lands shown on the attached map ("Exhibit A"), be included within the Recreation Area, subject to the valid existing rights of persons who are not parties to this agreement, recognizing that the existing Recreation Area, together with those Tribal lands shown on said map ("Exhibit A"), possess such high recreation value as to cause them to be of national significance; that the public interest can best be served through unified development and single administration of the lands for recreation purposes; that the Service has special knowledge and experience in planning, developing, and administering such recreation areas for public enjoyment and other beneficial purposes, including the conservation of natural resources; and that the Service is authorized to develop and administer for recreation such lands of the Tribe as are included within the Recreation Area.

NOW, THEREFORE:

I. The Service agrees:

A. Under authority contained in the act of October 15, 1966 (Public Law 89-654), to seek an extension of the boundaries of the Recreation Area that will encompass the lands owned by the Tribe and

Appendix C

the other lands within the "proposed boundary" generally depicted on the map labeled "Exhibit A."

B. To guarantee to the Tribe the following rights and privileges on lands within the Recreation Area, in the State of Montana:

1. All right, title, and interest which they now have and hold to subject lands for agricultural, grazing and other uses consistent with the objectives of the Recreation Area and in accordance with the other provisions of this agreement.

2. The preferential right of the Tribe to develop and operate water-based recreational facilities and other public recreational facilities on lands which are included in the Recreation Area in the State of Montana. Such preferential rights must be exercised by the Tribe in writing within 90 days after it is notified by the Service of the need for such facilities. (See Part II C of this agreement.)

3. The right of the Tribe—to the extent such right existed before this agreement was entered into—to sell permits for fishing on tribally owned or controlled lands hereby made available for inclusion in the Recreation Area, and the right to retain permit fees so collected, with the understanding that the Tribe will cooperate with the Service and the Montana Fish and Game Commission in the establishment of closed or restricted areas and seasons on the lands and waters within the "proposed boundary" generally depicted on the attached "Exhibit A."

Appendix C

4. The right of first preference in the employment of enrolled members of the Tribe in all instances where the Service contracts for the performance of services with the Tribe, as permitted under Section 703(1) of the Civil Rights Act of 1964 (78 Stat. 241, 257). The Service will encourage enrolled members of the Tribe to qualify for positions at the Recreation Area which are established pursuant to Civil Service regulations.

5. The right of the Tribe to produce and sell native handicraft objects at public recreational facilities which are located on the tribally owned lands included in the Recreation Area in accordance with concession contracts granted to the Tribe. The Service will encourage other concessioners in the Recreation Area to purchase and sell available handicraft items from the Tribe at reasonable prices.

6. To the extent that appropriated funds and personnel are available therefor, the right to consultative or advisory assistance from the Service in the planning of facilities or developments on lands within the Recreation Area in the State of Montana.

C. To administer the tribally owned lands included in the Recreation Area in accordance with the laws and rules otherwise applicable in the Recreation Area; to provide for the care, maintenance, preservation, and restoration of features of pre-historic, historic, scientific or scenic interest on such included lands; to

develop upon the said lands such roads, trails, and other structures or improvements as may be necessary in connection with the administration and protection of the Recreation Area, and to provide other public recreational facilities thereon as needed.

D. To cooperate with the Tribe, within the framework of legal authority, in controlling public use of tribally owned or controlled lands adjacent to the Recreation Area, subject to available fund limitations.

E. To cooperate with the Tribe in any effort of the Tribe to obtain grants or loans and to provide information relative to the Tribe's eligibility under any existing Federal programs for grants or loans for development purposes on the lands within the Recreation Area in the State of Montana.

F. To admit to the Recreation Area without charge enrolled members of the Tribe who seek such entry for the purpose of access to the Reservation or to the shoreline or waters of the reservoir adjoining the Reservation for nonrecreational purposes consistent with the objectives of the Recreation Area. Enrolled members of the Tribe who for recreation purposes use public recreational areas or facilities provided by the Service in the Recreation Area shall be required to pay the established fee.

Appendix C

G. To permit the Tribe, its enrolled members, or authorized representatives—in appropriate instances which will not interfere with public recreational use—to transport livestock, supplies, or materials, across the water and lands under mutually agreed upon terms as to time, conditions, and locations.

H. To cooperate in Indian training programs for the purpose of improving understanding between representatives of both parties to this agreement in the fields of interpretation, conservation, fire protection, search and rescue, historical programs, and fields of that nature, the objective of which is to improve the knowledge of Indians and enhance their employment opportunity.

II. The Tribe agrees:

A. To make available for inclusion within the boundary of the Recreation Area for public recreational use and for the development and administration by the Service of administrative and public-use facilities, in accordance with plans approved by that Service, the tribally owned lands within the "proposed boundary" generally depicted on the attached map ("Exhibit A"), the Tribe agreeing that it is in the best interests of the public and the Tribe to have the said lands so used, developed and administered.

Appendix C

B. To cooperate with the Service in facilitating administration of the Tribal lands as a part of the Recreation Area, as authorized by Act of Congress (Public Law 89-654), and in accordance with regulations which the Secretary of the Interior may prescribe. The authority of the Service to administer the Recreation Area and, in behalf of the Secretary, to prescribe regulations therefor, shall extend to the tribally owned lands included in the Recreation Area.

C. To decline or, in accordance with Section I-B-2 of this agreement, to begin negotiations for, a concession contract or contracts with the Service within 90 days of the receipt of a written request from the Service under which the Tribe would provide, in accordance with Service plans and policies, facilities for public use and enjoyment of the lands included in the Recreation Area in the State of Montana—including but not limited to overnight accommodations, food service, boat rentals, merchandising, such as the sale of boating supplies, camper supplies, food, native Indian handicraft materials, automobile services, including gas and oil supplies, saddle horse service, and such other services and facilities as the Service considers desirable and appropriate. If the Tribe fails to exercise its preferential right in the manner set forth in Section I-B-2 or does not execute the concession contract or contracts offered by the Service, a prospectus will be issued inviting others to provide the same services

and facilities offered to the Tribe. Any concessioner selected as a result of such a prospectus will be authorized and encouraged to sell native Indian handicraft produced by the Tribe.

III. The parties further mutually agree:

A. That the Service and authorized representatives of the Tribe will meet at least once each year to review mutual objectives and programs and to consider other matters of mutual concern which affect the development, protection, and management of the Recreation Area. Such reviews shall take into account the master plan objectives of the Service and the Tribe.

B. To seek such benefits for the Recreation Area as are obtainable under the provisions of the Land and Water Conservation Fund Act of 1965.

C. To utilize the resources of both parties cooperatively to develop an interpretive program for the Recreation Area which will make the maximum use of the historic, scenic, scientific, and human resources of the area for public understanding and appreciation and, where possible, to use qualified members of the Tribe in such interpretive program. Furthermore, to carry out the Crow theme or motif in development programs whenever consistent with the purposes of the Recreation Area.

Appendix C

D. Nothing in this agreement shall impair the treaty or statutory rights of the Tribe and its enrolled members to hunt and fish on lands which are included in the Recreation Area or the rights of the enrolled members of the Tribe to hunt and fish on such lands under Section 2(d) of the Act of July 15, 1958, except that in the interest of public safety the Service may designate zones in the Recreation Area where and periods when no hunting may be permitted.

E. That title to the tribal lands included in the Recreation Area shall remain in the Tribe.

F. That any tribally owned lands, other than those referred to in this agreement, hereafter included or designated as a part of the Recreation Area pursuant to law may be so included or designated only upon consent of the governing body of the Tribe.

G. Nothing in this agreement shall detract from the responsibility of the Secretary of the Interior or the Commissioner of Indian Affairs to administer grazing permits and leases or to exercise other trust responsibilities on the tribal lands included in the Recreation Area; but the Secretary may designate zones or areas where, and establish periods when, grazing may not be permitted on such tribal lands for reasons of public safety, administration, or public use or enjoyment of the Recreation Area.

H. Nothing in this agreement shall deprive the Tribe or any of its members of their rights and remedies available by law.

I. That this agreement shall remain in effect for a term of 50 years, but any part or parts thereof may be amended or modified by mutual written consent at any time: Provided, That no such amendment shall have the effect of withdrawing from Recreation Area purposes any of the tribally owned lands hereby made available by the Tribe for inclusion in the Recreation Area. Nor shall any such amendment diminish any rights of the Service to administration, development, and use of such tribally owned lands or of the rights accorded the Tribe hereunder. This agreement may be renegotiated and subsequently renewed upon its expiration for additional periods of 50 years.

J. That wherever in this agreement the Service is referred to, the term shall include the duly authorized representatives of the Service, and wherever the Tribe is referred to, the term shall include the duly authorized representatives of the Crow Indian Tribe of Montana.

K. No Member of, or Delegate to, Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the said parties have hereunto subscribed their names and affixed their seals.

CROW INDIAN TRIBE OF MONTANA

DEC. 1, 1967

DEC 1 - 1967

Date

By: *Wilson Real Bird*
Chairman--Crow Tribal Council

ATTEST:

DEC 1, 1967

DEC 1 - 1967

Date

By: *Mrs. Pauline Anall*
Acting Secretary--Crow Tribal Council

UNITED STATES OF AMERICA

NOV 30 1967

Date

By: *[Signature]*
Director, National Park Service

Approved:

DEC. 1, 1967
DEC 1 - 1967

Date

[Signature]
Secretary of the Interior

APPENDIX D

MEMORANDUM OF AGREEMENT

BUREAU OF RECLAMATION

AND

NATIONAL PARK SERVICE

MEMORANDUM OF AGREEMENT

between

BUREAU OF RECLAMATION

and

NATIONAL PARK SERVICE

RELATING TO THE PROVISIONS FOR ADMINISTRATION AND THE JOINT USE AND FINANCING OF THE OPERATION AND MAINTENANCE OF THE FORT SMITH GOVERNMENT CAMP AND JOINT USE AREA - YELLOWTAIL UNIT - PICK-SLOAN MISSOURI BASIN PROGRAM - MONTANA

THIS SUPPLEMENT, made and entered into this 1st day of Oct, 1985, pursuant to provisions of Contract 14-06-600-453A, between the BUREAU OF RECLAMATION, hereinafter referred to as the Bureau, and the NATIONAL PARK SERVICE, hereinafter referred to as the Service, as agencies of the United States of America:

WITNESS THAT:

PRELIMINARY STATEMENTS

WHEREAS, the following preliminary statements are made by way of explanation:

a. The Bureau and the Service have entered above referenced agreement relating to the development and administration of the Yellowtail Unit. Map #459-600-197 is attached showing the Yellowtail Unit, Yellowtail Dam, and vicinity and agreed to specific areas of responsibility.

b. Pursuant to the administration of the Fort Smith Government Camp, the Bureau has transferred housing and other buildings in the Fort Smith Government Camp to the Service to accommodate its employees.

c. With both the Bureau and the Service owning housing and other buildings within the Fort Smith Government Camp area, it is necessary to provide for the funding of the operation, maintenance and repair of the camp's water system, sewer system, streets, and other permanent facilities within the area; and to provide arrangements for administration of the maintenance work and capital improvements within the camp area, and other services within the area.

NOW, THEREFORE, it is understood and agreed to between the agencies hereto as follows:

TERMINATION OF SUPPLEMENT #1 (No. 14-06-600-453A)

1. Supplement #1, dated 07/01/72 under Contract No. 14-06-600-453A, is terminated as of the date of this supplement.

DEFINITIONS

2. As used throughout this supplement the following terms shall have the meanings set forth below:

a. Housing relates to all types of living quarters and the utilities within the lot lines. The term includes all housing provided for employees and visitors at the camp.

b. Administrative buildings are those structures (excluding the dam and powerplant) necessary to the conduct of the Government's business whether they are permanent, relocatable, or rented, and whether centrally located or dispersed over a project area. Included are offices, visitor center, shops, warehouses, garages, and vehicle or storage sheds.

c. Streets and Utilities refers to the streets and the water, sewerage, electrical, and telephone utility systems which service or support the Fort Smith Government Camp.

d. Fort Smith Government Camp consists of the area where the field headquarters, administrative buildings, warehouses, housing units for employees and visitors, schoolground areas, park areas, all vacant lots and grounds within the boundaries of this area, including streets and utilities.
(Re: Map #459-600-197 attached.)

e. Community recreational area refers to park, playground, golf course, and recreation area for use of the employees and their families in the Fort Smith Government Camp.

f. Joint facilities costs, include, but are not limited to, operation, maintenance and repair associated with the lighting system, garbage removal service, streets and utilities, fire protection within the Fort Smith Government Camp, but excluding all receipts from tenants for rents, utilities, or other services.

g. Operation, maintenance and repair as used herein, is the routine recurring work required to keep a building, structure, utility system or other fixed property in such a condition that it may be continuously utilized for its original intended use or designed capacity. This includes repairs to restore a facility to a condition substantially equivalent to its original state and efficiency by replacement or rebuilding of constituent parts.

h. Preventive maintenance, as used herein, is a series of acts at established intervals to insure that facilities serve their full life or intended use expectancy, such as inspecting, adjusting, lubricating, cleaning, and making necessary minor repairs.

i. Alteration is a rearrangement, an addition to, an architectural, structural, or other change in a facility, including plumbing, heating, and electrical systems and mechanical equipment affecting its structural strength, stability, safety capacity, or usefulness and increasing the capital investment.

TRANSFER OF PROPERTY

3. Pursuant to the joint agreement terminated in Article 1 above, the Bureau has transferred certain housing, administrative buildings and comfort stations to the Service; and in the future when other such housing or buildings are no longer required for Bureau purposes, they will be offered first for transfer to the Service at an appraised value without exchange of funds. In the event such housing, administration building, or comfort stations become surplus to the needs of the Service, the Bureau retains first option to reacquire such property. Disposals by either agency to other Federal, State, or private interests for onsite use shall be reviewed jointly by the Bureau and the Service for compatibility to the camp management plans prior to any commitment for transfer or sale of such property.

CAMP MANAGEMENT

4. Routine or preventive maintenance, repairs and alterations to the housing, administrative buildings, comfort stations, streets and utilities, will be performed by the agency having custodial responsibility. Contracts for garbage pickup and disposal service, and electricity will be administered by the Bureau.

The main lines for the water and sewer systems will be the responsibility of the Bureau. Funds will be provided by the Bureau and charged through the Joint Facilities costs.

Water and sewer lines take offs from the mains will be the responsibility of the agency owning the building. The entire cost will be covered by that agency including repair of the streets, curbs, gutters, and sidewalks requiring repair due to replacement or repair of the lines.

Work on the water and sewer system, except within the lot lines, will be performed by the Bureau and the Service will be billed for that portion which is their responsibility.

FIRE PROTECTION

5. The Bureau will be responsible for the operation, maintenance, and repair of the fire truck, fire station, and fire alarm systems within the Government camp area. The fire protection equipment provided by the Bureau will remain totally under their control as it is the primary source of protection for the powerplant and all related facilities. The Bureau will hold training classes intermittently for the camp's volunteer fire crews which consist of Government employees, Bureau and Service, stationed at Fort Smith Government Camp.

UPKEEP OF PROPERTY

6. The Bureau and the Service will each be responsible for the operation, maintenance and repair and upkeep of the houses and other buildings under their respective jurisdictions, and will provide care for the trees, shrubs, and lawns in areas adjacent to their houses and buildings. All other care of lawns, trees, and shrubs will be the responsibility of the Bureau and will be charged to joint facilities costs.

CROSS-SERVICING FOR MINOR REPAIR AND MAINTENANCE

7. Both agencies, to the extent practicable, will perform services or furnish supplies or equipment for each other on a "when available" basis with reimbursement as provided in Article 16. When such services are performed by one agency for the other, the safety provisions of the agency providing the service shall be adhered to. Supervision shall be provided by the agency rendering the service with responsibility for safety resting with the supervisor.

TEMPORARY USE OF AVAILABLE QUARTERS

8. To obtain optimum utilization of vacant housing, the Bureau and the Service agree, to the extent that quarters are available, to rent units to each other's employees for an interim period of less than 90 days by direct rental agreement with the tenant-employees. Tenants will be responsible for the custody, care and safekeeping of the quarters assigned and for observing tenant rules. Rental charges for quarters and services furnished will be made in accordance with established rates, such rentals to be paid on a monthly basis in advance to the agency having custody. Tenants will arrange for electrical service directly with the supplier and pay the supplier for these services.

JOINT FACILITIES

9. The joint facilities costs (Article 2-f) pertinent to the Fort Smith Government camp shall be shared by the Bureau and the Service, with the Service paying a flat rate per month fee for each administration building, comfort station, housing unit, and other structures in its custody. In the event of additions or deletions of any of the above facilities, the flat rate will be adjusted and become effective the following October 1. The Service will reimburse the Bureau for the flat rate fee as provided in Article 16.

The flat rate for which the Service will reimburse the Bureau will be incorporated in a document which will be reviewed jointly by both agencies each November and adjusted to meet the current operating, maintenance, and repair costs of the Fort Smith Government Camp. The document prepared for the flat rate charges will show the obligation incurred (actual or estimated) for the current year, and the estimated costs for the two ensuing fiscal years. The obligated balance, plus or minus, will be shown after actual costs are ascertained as of September 30, and debited or credited to the budget year when the next review is made. An explanatory detail recital shall be made for any extraordinary obligations incurred or proposed.

DIRECT COSTS

10. A direct charge will be made for each water or sewer tap, other than those covered in Joint Facilities costs, Article 9, as well as each additional garbage pickup unit under the Service's administrative jurisdiction, except when totally funded by the Service. The Service will reimburse the Bureau for such direct costs as provided in Article 16.

TRANSFER OF SHOP FACILITIES

11. The Bureau has transferred to the Service, without exchange of funds, its existing automotive repair shop building, gasoline dispensing facilities and other shop related equipment used to repair and service motorized equipment at Fort Smith Government Camp. In the event commercial service station facilities in the immediate vicinity become unsuitable for Bureau needs, and can no longer provide service for dispensing gasoline and oil, regularly scheduled maintenance service, oil and oil filter changes, lubrications, tuneups, and minor repairs to light trucks, etc., the Service will supply similar services to the extent of its capabilities. If the Service is unable to provide adequate service due to lack of funds for staffing, the Bureau reserves the right to share the shop and facilities and to service and perform work on its own motorized equipment.

ROAD MAINTENANCE AND SNOW REMOVAL

12. As delineated on Map #459-600-197 dated January 6, 1981, Yellowtail Dam and Vicinity, the Service is responsible for funding and accomplishing all maintenance work on the roads and parking areas identified as property of the NPS. This also includes the Fort Smith airstrip and Park Route #2 from the junction of Avenue B to Warman Creek outside the Government Camp area. All other camp streets, roads, service roads, and parking areas identified on the map as the property of the Bureau may have routine maintenance performed by the Service, at the request of the Bureau, with reimbursement of Service costs as provided in Article 16. Snow removal from areas of respective responsibility will either be performed by the agency itself or if performed by the other agency, it will be in accordance with a jointly approved snow removal plan. All costs associated with repair, reconstruction, or corrective work for normal maintenance or major road failures, regardless of cause, will be the financial responsibility of the agency whose area fails. Each agency is responsible to fund and provide for proper signing for that portion of the road under its control. To the extent practical, signing will be compatible with the National Standards as outlined in the Department of Transportation Manual of Uniform Traffic Control Division. The agency having primary responsibility for the roads will make the determinations as to the maintenance standards to be set and where necessary, will confer with the other agency to try to coordinate any changes or reconstruction which might be beneficial where one contract is issued to cover work on both agencies' areas. Any joint contracts for road work will require review and approval by both agencies prior to the issuing of the contract and joint acceptance before the contract is approved as complete. The camp streets, roads, service roads, and parking areas identified as property of the Bureau will be funded and maintenance performed by or under the direction of the Bureau. If the Service is requested to perform maintenance on the Bureau's portion of the roads, reimbursement to the Service will be as provided in Article 16.

COMMUNITY RECREATIONAL AREA

13. The Bureau has developed a plan for the community recreation area at Fort Smith Government Camp and will assume the entire cost of necessary construction work and purchase of playground equipment.

Once the facilities have been placed in operation, the operation and maintenance costs will be charged to joint camp expenses under the responsibility of the Bureau.

MAINTENANCE AND REPAIR OF CAMP BOUNDARY FENCES

14. The Bureau will be responsible for the maintenance and replacement of the boundary of Government right-of-way fence as shown on Map #459-600-197.

ADMINISTRATIVE BUILDING

15. The Bureau transferred to the Service, without exchange of funds, its administration building, with space reserved in the vault for storage of permanent records.

REIMBURSEMENT

16. Reimbursement will be accomplished by an appropriate transfer of funds upon receipt of semi-annual or monthly billings from the respective agency performing the services as of each March 31 and September 30. Such billings may include an administrative and general expense surcharge of not to exceed 15 percent of the direct costs.

HOUSING

17. Each agency now provides and maintains housing accommodations in its custody at the Fort Smith Government Camp.

a. Rental rates shall be established in accordance with the Departmental Manual and other applicable rules and regulations.

INTERPRETIVE DIFFERENCES

18. Any interpretive differences involving the intent of the provisions of this supplement between the Superintendents of the Bureau and the Service which cannot be mutually resolved locally shall be referred to the respective Regional Directors.

AMENDED OR TERMINATED

19. This supplement shall be in effect for a period not to exceed five years, becoming effective the date of its approval and terminating five years hence. Upon termination the document should be reassessed by both parties to

determine the necessity for amendments and reaffirmation. Termination in whole or in part, or amendments can be accomplished at any time by mutual consent of involved parties or upon 60 days of notice in writing by either party.

NOTICE

20. Any notice, demand, or request required or authorized by this supplement shall be deemed properly given if mailed to the Regional Director, Bureau of Reclamation, Billings, Montana 59103, on behalf of the Bureau, except where otherwise herein specifically provided, and to the Director, Rocky Mountain Region, National Park Service, Denver, Colorado 80225, on behalf of the National Park Service. A copy of such notice shall be furnished the respective Superintendents. The designation of the person to be notified or the address of such person may be changed at any time by similar notice.

IN WITNESS HEREOF, the agencies hereto have caused this supplement to be executed this day and year first above written.

NATIONAL PARK SERVICE
ROCKY MOUNTAIN REGION

Lorraine Mintzmyer
Regional Director

Oct. 1, 1985
Date

Address: 655 Parfet Street
P.O. Box 25287
Denver, CO 80225

BUREAU OF RECLAMATION
MISSOURI BASIN REGION

Donald R. Hise
Regional Director

Date

Address: P.O. Box 2553
Billings
Montana 59103

APPENDIX E

GENERAL PLAN

FOR FISH AND WILDLIFE MANAGEMENT

YELLOWTAIL RESERVOIR, WYOMING

GENERAL PLAN
FOR FISH AND WILDLIFE MANAGEMENT
YELLOWTAIL RESERVOIR, WYOMING

WHEREAS, the United States, through the Department of the Interior, has acquired certain lands in the State of Wyoming for construction of Yellowtail Dam and Reservoir for irrigation, flood control, generation of hydroelectric power, entrapment of silt, and other purposes pursuant to the Federal Reclamation Laws, and

WHEREAS, the Bureau of Reclamation of the Department of the Interior is charged with responsibility of operating and maintaining said dam and reservoir, and

WHEREAS, the Secretary of the Interior finds that the land and water areas acquired for Yellowtail Reservoir in Wyoming, situated in Big Horn County, are of particular value in carrying out the National Migratory Bird Management Program, and a National Recreation Program, and

WHEREAS, a Memorandum of Understanding between the Bureau of Reclamation and the National Park Service, approved by the Secretary of the Interior, and dated December 31, 1964, designates the National Park Service of the Department of the Interior as the agency responsible for the administration of a portion of the project area identified on the attached map as the "Big Horn Canyon Recreation Area" for recreation and

WHEREAS, the Wyoming Game and Fish Commission finds that the land and water areas of said portion of Yellowtail Reservoir in Wyoming have

value in the conservation and management of resident and other wildlife in the State of Wyoming, and

WHEREAS, it is jointly determined by the parties hereto that a General Plan for administration of the following described lands will be in the public interest.

NOW, THEREFORE, IN ACCORDANCE WITH THE PROVISIONS OF AND UNDER THE AUTHORITY OF THE FISH AND WILDLIFE COORDINATION ACT, (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.). THE SECRETARY OF THE INTERIOR AND THE COMMISSIONER OF THE WYOMING GAME AND FISH COMMISSION of the State of Wyoming DO HEREBY APPROVE as a GENERAL PLAN and AGREE that:

1. The aforesaid Yellowtail Dam and Reservoir are under the primary control of the Department of the Interior through the Bureau of Reclamation to carry out the purposes of the project.

2. Lands covered by this General Plan identified as that portion of the Yellowtail Reservoir area in Wyoming, comprising approximately 2,810 acres, substantially as shown as "Area A" on the map, dated June 1966, attached hereto, and also known as the Shoshone Arm Area, shall be made available to the Wyoming Game and Fish Commission for administration for the conservation and management of resident and other wildlife. The transfer of administration shall be accomplished by a cooperative agreement between the Bureau of Reclamation and the Wyoming Game and Fish Commission.

3. Those lands identified as "Area B", substantially as shown on the attached map, comprising approximately 11,600 acres and which lie within the Big Horn Canyon Recreation Area, shall be made available

to the Wyoming Game and Fish Commission for fish and wildlife management purposes under a cooperative agreement to be executed between the National Park Service and the Wyoming Game and Fish Commission. The above agreement shall be in accordance with a master Memorandum of Understanding between the two agencies.

IN WITNESS WHEREOF the parties hereto have affixed their signatures and date thereof on triplicate copies hereof, as follows:

September 6, 1966

(Date)

/s/ James B. White

Commissioner, Wyoming Game and
Fish Commission

January 18, 1967

(Date)

/s/ Stewart L. Udall

Secretary of the Interior

APPENDIX F

SPECIAL USE PERMITS

Special Use Permits

1. Permit No. 1320-2-8021, to Mountain States Telephone Company, Cheyenne, Wyoming, has been issued for the installation and maintenance of a buried telephone line. The permit expires September 30, 2000.
2. Permit No. 1320-86-0019, to Wyoming Game and Fish, Greybull, Wyoming, has been issued for the installation and use of a hunter checking station during the open Wyoming hunting season. The permit expires December 31, 1990.
3. Permit No. 1320-8-7018, to the Bureau of Land Management, Worland, Wyoming, has been issued for construction of a four-strand barbed wire fence to control the drift of cattle onto park lands. The permit expires December 31, 1990.
4. Permit No. 1320-9-0017, to the Yellowtail Wildlife Habitat, Wyoming Game and Fish Commission has been issued to provide for the use of snowmobiles on NPS lands within the boundaries of the Habitat Unit. The use is restricted to management purposes only. The permit expires December 31, 1988.
5. Permit No. 1320-86-0015, to Montana State Fish, Wildlife and Parks has been issued to provide for the free exchange of NPS garage space for the use of Fish, Wildlife and Parks metal storage building presently used on the floating gas dock at Ok-A-Beh. The permit expires December 31, 1990.
6. Permit No. 1320-86-0014, to Big Horn County, Basin, Wyoming, has been issued for the installation of a cattle guard on park land to prevent cattle from entering on to the transpark road near Horseshoe Bend. The permit expires December 31, 1991.
7. Permit No. 1320-86-0013, to the Bureau of Land Management, Worland, Wyoming, has been issued for the construction of a grazing allotment fence in the extreme southern portion of the park. The permit expires December 31, 1991.

8. Permit No. 1320-5-7012, to the Mountain States Telephone and Telegraph Company, Lovell, Wyoming, has been issued to provide 25 pair cable telephone service for the Bighorn Canyon Visitor Center. The permit expires September 17, 1995.
9. Permit No. 1320-5-7011, to Pacific Power and Light Company, Portland, Oregon, has been issued to provide underground electric service to the Bighorn Canyon Visitor Center. The permit expires September 17, 1995.
10. Permit No. 1320-5-7010, to the Mountain States Telephone and Telegraph Company, Cheyenne, Wyoming, has been issued to provide underground telephone service to the Bighorn Canyon Visitor Center. The permit expires April 30, 1995.
11. Permit No. 1320-86-0009, to the Bureau of Land Management, Billings, Montana, has been issued for the construction of the Safeguard and Dryhead drift fences. The permit expires December 31, 1989.
12. Permit No. 1320-3-7008, to H. D. Bischoff, of Lovell, Wyoming, has been issued to provide 117 acres of park land near the M-L Ranch for a livestock loading and holding operation. The permit expires September 30, 1990.
13. Permit No. 1320-1-7007, to Big Horn County Electric Cooperative, Inc., Lodge Grass, Montana, has been issued to provide for future developments with the existing conduits under the Ok-A-Beh Road. The permit expires October 1, 1991.
14. Permit No. 1320-9-003, to the Bureau of Land Management, Billings, Montana, has been issued for the construction and maintenance of a stock loading, holding an inspection corral. The permit expires July 31, 1989.
15. Permit No. 1320-86-002, to the Bureau of Land Management, Billings, Montana, has been issued to provide for a watering site and construction of a 2,800 foot water line from Layout Creek. The site provides water for wild horses. The permit expires December 31, 1991.

16. Permit No. 1320-86-022, to the School District, Big Horn County, Montana, has been issued to provide housing for school district teachers at Fort Smith Elementary School. The permit expires November 30, 1986.

APPENDIX G

MISCELLANEOUS CONTRACTS

AND AGREEMENTS

Miscellaneous Contracts and Agreements

1. On July 28, 1971, the National Park Service contracted with Big Horn County Electric Cooperative, Inc., Montana (Contract No. 4970P11094), to construct, operate, and maintain an underground electrical distribution system from Fort Smith to Pretty Eagle and Ok-A-Beh as depicted on Drawing No. 617-70,002. This contract is for a period of 20 years.
2. On January 1, 1981, the National Park Service renewed a contract with the Big Horn Rural Electric Co., Wyoming (Contract No. CX-1200-4-9905), to operate and maintain an overhead electrical distribution system to the Horseshoe Bend area. This contract is for a period of 10 years.
3. On August 22, 1973, the Bureau of Reclamation issued a contract (Contract No. 14-06-600-725A), to Big Horn Electric Cooperative, Inc., Montana, to construct, operate, and maintain a buried electric cable to the National Park Service campground amphitheater at Fort Smith. This contract is for a period of 50 years.
4. In March 1974, the Wyoming State Engineer, with concurrence of the Bureau of Reclamation and National Park Service, issued a permit (No. 24307) to the Wyoming Game and Fish Commission to appropriate surface water from Bighorn Lake for irrigation and stock watering within the Yellowtail Wildlife Habitat Unit.
5. On March 27, 1974, the Bureau of Reclamation with the concurrence of the National Park Service issued a contract to Mountain States Telephone and Telegraph Co. (Contract No. 14-06-600-987A) for a buried

telephone line through lot 65-C and lot 67-B, T.56 N., R.94 and lot 5, Section 2, T.56 N., R.95 W. The term of this contract is 50 years.

6. On May 24, 1974, the Bureau of Reclamation with the concurrence of the National Park Service issued a highway easement (Contract No. 14-06-600-1023A) to the Wyoming Highway Department to reconstruct, operate, and maintain a highway across lots 67, 65-C, 65-D, and 65-E, T.56 N., R.94 W. In the event the road is permanently abandoned by the state, the interest granted will be terminated.
7. In the 1973 "Land Use Recommendations" and 1974 "Land Use Decisions" for the Pryor Mountain Complex, which were prepared jointly by the Bureau of Land Management and Forest Service in cooperation with the National Park Service, these documents define certain agreements which affect management of the Bighorn Canyon National Recreation Area. They are as follows:
 - a. Oil and gas leasing on the Pryor Mountain Wild Horse Range will be permitted only with the stipulation that no occupancy of the surface will be allowed.
 - b. Oil and gas lease applications on lands administered by the National Park Service will be submitted to the Service for determination on a case-by-case basis.
 - c. Recreation Area lands north of the existing Wild Horse Range will be made available for year-round pasture for wild horses under specified conditions in accordance with Special Use Permit No. SP-1320-9-0009. This permit expires December 31, 1985.

d. The Dryhead Common Allotment will be managed under a restoration plan prepared by the Bureau of Land Management with Park Service concurrence. The Dryhead Common Allotment contains about 10,165 acres of Recreation Area lands in Carbon County, Montana, in Townships 7 and 8 South and Ranges 28 and 29 East. The restoration plan has been prepared, the fencing is complete, and the plan will be implemented as soon as the water developments are completed.

e. A livestock trail called the "Dryhead Trail" has been administratively established extending from Old Inspection Corrals (Sec. 33, T.58., R.95 W.) north along the county road to the Bureau of Land Management's Sykes Corral, continuing north along the Bad Pass Road to the north boundary of the Dryhead Common Allotment. The trail is utilized in the spring between the period April to June by 23 cattle operators who drive about 5,000 cattle northward to the Dryhead Common Allotment and deeded land. These cattle return along the same route in the fall. With the Bad Pass Road complete some ranchers may prefer to truck their cattle to and from the Dryhead Common Allotment and private adjacent lands. Since there is no other access to these lands, trucking will be authorized under the National Park Service permit system.

8. The American Colloid Company has 7 valid bentonite mining claims within the Recreation Area boundaries in Sections 10, 13, 14, and 34, T.57 N., R.95 W., 6th P. M. Wyoming. Strip mining operations within

the claims have taken place. In accordance with provisions of the recently adopted National Park Service Comprehensive Regulation, found in CFR Title 36, Part 9 (Federal Register Vol. 42, No. 17, January 26, 1977,) as authorized in Section 2 of September 28, 1976, P. L. 94-429, a Plan of Operations was prepared and approved providing for the continuation of this operation. The surface mining operation disturbed approximately 50 surface acres during the period from 1978 through 1981. The \$25,000.00 bond was released June 9, 1981, following successful completion of the reclamation plan.

9. The Ok-A-Beh boat ramp and associated development is the only access to Bighorn Lake in the northern section of the Park. Access to the Ok-A-Beh development is over 10 miles of paved highway constructed in 1972. Approximately 0.3 mile of the route is built on U. S. Government land (Administrative Take Land) near Fort Smith. A road easement 600-feet each side of centerline has been purchased through approximately 5 miles of Crow Indian allotted land and other private land. The remaining 4.5 miles of road to Ok-A-Beh was constructed on Crow Tribal land as per the Memorandum of Agreement of December 1976 between the National Park Service and the Crow Tribe. The construction of the 4.5-mile section of road through Tribal land has raised serious questions concerning jurisdiction in the minds of some Tribal members. Threats to close the Ok-A-Beh Road through Tribal lands have been voiced by members of the Tribe who are opposed to the Park's existence. The possible execution of such a threat

by an individual or group has been discussed with the Tribal leadership and the Bureau of Indian Affairs. A course of action has been outlined designed to protect the Park Visitor and minimize confrontation.

10. A contract and Grant of Easement was made on January 29, 1967, between the National Park Service and Bessie F. Tillet, et.al., to provide for the development and improvements of a water diversion system from the Tillet Spring to Horseshoe Bend. (BICA Deed No. 2, TR-03-100.) The spring is outside the Recreation Area boundary in Section 26, T.58 N., R.95 W., 6 P. M. with the pipeline R/W totaling 3.25 acres, 1.57 acres of which is outside the Recreation Area. (RE: maps, the Tillet spring - Water Supply, Horseshoe Bend, Bighorn Canyon National Recreation Area NRA-BC/304.3, April 1, 1966.) The National Park Service has the right to all the water available from the spring, but not to exceed 75 gallons per minute.

Because of the number of Legislative and Administrative constraints it is not possible to include them on a map appropriate for this document. However, maps are available at Park Headquarters, Fort Smith, Montana, which delineate many of these constraints.

5. Jurisdiction

The National Park Service had proprietary jurisdiction within Bighorn Canyon National Recreation Area until 1980. On April 29, 1980 the State of Montana ceded concurrent jurisdiction (Montana House Bill 666) to the United States of all federally-owned lands within Bighorn Canyon.

APPENDIX H

FIELD SOLICITOR'S LETTER
ON JURISDICTION



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

P. O. Box 1538
Billings, Montana 59103

August 7, 1973

Memorandum

To: Regional Solicitor, Denver

From: Field Solicitor, Billings

Subject: Bighorn River - Jurisdictional Matters

Thank you for your memorandum of July 23, 1973, with which you enclosed for comment the memorandum of June 29, 1973, from the Director of the Midwest Region of the National Park Service.

Upon receipt of your memorandum, I contacted the Superintendent of the Bighorn Canyon National Recreation Area and we conferred on the matter August 1, 1973.

In addressing the problem of jurisdiction we should recognize at least four categories of land in the Montana section of the Bighorn Canyon National Recreation Area: (1) Congressional take areas; (2) Administrative take areas; (3) Tribal areas; and (4) National Park Service acquired areas:

(1) Congressional take areas are those described in the Yellowtail Taking Act of July 15, 1958 (72 Stat. 361) wherein the Crow Tribe was compensated for "the transfer to the United States . . . of all right, title, and interest of the Crow Tribe in and to the tribal lands described," subject to reservations covering (1) a right-of-way for the Indian Irrigation Service Canal; (2) minerals; and (3) the right to hunt and fish in the Congressional taking area without a license. These lands are now outside the Crow Indian Reservation. This exclusion is confirmed by the language of Section 2(c)(1) of the Bighorn Canyon National Recreation Area Act of October 15, 1966 (80 Stat. 913) which distinguishes the take land from "lands comprising the Crow Indian Reservation." The Congressional take lands are, accordingly, not subject to laws relating solely to Indian lands and reservations.

(2) Administrative take areas are those Indian Reservation lands which were acquired from Indian allottees, or from non-Indian owners of reservation lands without a special Act of Congress. These lands, being still within an Indian reservation, have a status similar

to that of fee patent lands within a reservation: Tribal Indian activity on these lands is not subject to state law. (Kennerly v. District Court of Montana (1971) 400 U.S. 423). But 18 U.S.C. § 1165, which prohibits hunting, trapping or fishing on Indian tribal, allotted or reserved lands without permission, is not for application.

(3) Tribal areas are those Indian Reservation lands which have been included within the Bighorn Canyon National Recreation Area pursuant to the Memorandum of Understanding of December 1, 1967, between the Crow Tribe and the National Park Service. Authority for such inclusion is found in Section 2(b) of the Bighorn Canyon National Recreation Area Act of October 15, 1966 (80 Stat. 913) which states:

"(b) No part of the tribal mountain lands or any other lands of the Crow Indian Tribe of Montana shall be included within the recreation area unless requested by the council of the tribe. The Indian lands so included may be developed and administered in accordance with the laws and rules applicable to the recreation area, subject to any limitation specified by the tribal council and approved by the Secretary."

Under the Memorandum of Understanding of December 1, 1967, it is stipulated that the Crow Tribe reserves the right to require fishing permits on the tribal lands involved.

(4) National Park Service acquired areas are non-reservation lands which the National Park Service has acquired or may acquire under Section 2(a) of the Bighorn Canyon National Recreation Area Act. These lands would not be subject to laws relating solely to Indian lands and reservations; nor would they be subject to Indian hunting and fishing rights under Section 2(d) of the Yellowtail Taking Act of July 15, 1958.

Three decisions of the United States District Court for Montana should also be noted when considering the question of jurisdiction:

(1) In The Crow Tribe of Indians v. United States, Civil No. 214 (D. Mont. 1963), the Bighorn River was declared to be navigable.

(2) In United States v. Larry Haug et al., Misc. Criminal No. 511 (D. Mont. 1971), Judge Battin ruled that the Crow Tribe owned the bed of the Bighorn River where it passed through the tribal lands above described.

(3) In United States v. Pollman, Criminal No. 4472 (D. Mont. 1973), Judge Jameson ruled that where the Flathead Tribes owned the bed of the S½ of the navigable Flathead Lake, and held a treaty right to exclusively fish thereon, non-Indians required a tribal permit to fish thereon.

Non-Indian fishermen might urge that the Crow Tribe did not hold a treaty right to exclusively fish on the Bighorn River and that, therefore, the rule of Pollman was not for application. This point may eventually be litigated; but until such time, the Secretary, in the above cited Memorandum of Understanding of December 1, 1967, has recognized the need for a permit on tribal lands.

In the four areas of the Bighorn National Recreation Area above described, state, federal and tribal laws may be variously applied:

1. Congressional Take Area

(a) Federal laws apply where they relate to (1) the enforcement of National Recreation Area regulations; (2) navigation; (3) the right of Crow Tribal members to fish without a state license; and (4) crimes generally punishable under federal law.

(b) State laws apply in all other cases.

(c) Tribal laws are not for application.

2. Administrative Take Area

(a) Federal laws apply where they relate to (1) the enforcement of National Recreation Area regulations; (2) navigation; (3) crimes or transactions involving both Indians and non-Indians; (4) major crimes involving Indians; and (5) crimes generally punishable under federal law.

(b) State laws apply where they relate to (1) the enforcement of state hunting and fishing laws against non-Indians; (2) crimes or transactions involving only non-Indians.

(c) Tribal laws apply where they relate to crimes or transactions involving only Indians.

3. Tribal Area

(a) Federal laws apply where they relate to (1) the enforcement of National Recreation Area regulations; (2) navigation; (3) crimes or transactions involving both Indians and non-Indians; (4) major crimes involving Indians; and (5) crimes generally punishable under federal law.

(b) State laws apply where they relate to (1) the enforcement of state hunting and fishing laws against non-Indians; (2) crimes or transactions involving only non-Indians.

(c) Tribal laws apply where they relate to (1) crimes or transactions involving only Indians; and (2) requirements for a tribal

hunting or fishing permit by a non-Indian who will enter on Indian tribal, allotted, or reserved land for the purpose of hunting and fishing thereon.

4. National Park Service Acquired Area

(a) Federal laws apply where they relate to (1) the enforcement of National Recreation Area regulations; and (2) crimes generally punishable under federal law.

(b) State laws apply in all other cases.

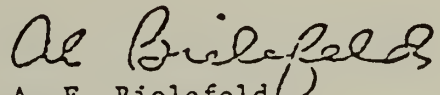
(c) Tribal laws are not for application.

Since 18 U.S.C. § 1165 is a criminal statute, it must be strictly construed. It cannot be invoked to require permits to enter upon lands to hunt and fish thereon, where such lands are not Indian tribal, allotted or reserved lands. Therefore, requirement for a permit should be limited to hunting and fishing in the tribal area above described.

Where a state law covers the same subject matter as the federal law, and where the application of state and federal law develops a conflict, the supremacy clause of the United States Constitution requires the state law to yield. However, the language of Justice Brennan, in Kossick v. United Fruit Co., 365 U.S. 731, 739 (1961) should be noted:

"... the fact that maritime law is--in a special sense at least, Romero v International Terminal Operating Co. 358 US 354, 3 L ed 2d 363, 79 S Ct 468--federal law and therefore supreme by virtue of Article 6 of the Constitution, carries with it the implication that wherever a maritime interest is involved, no matter how slight or marginal, it must displace a local interest, no matter how pressing and significant. But the process is surely rather one of accommodation, entirely familiar in many areas of overlapping state and federal concern, or a process somewhat analogous to the normal conflict of laws situation where two sovereignties assert divergent interests in a transaction as to which both have some concern. Surely the claim of federal supremacy is adequately served by the availability of a federal forum in the first instance and of review in this Court to provide assurance that the federal interest is correctly assessed and accorded due weight."

In accordance with the above, where a conflict between state and federal jurisdiction occurs, an effort should be made to accommodate the conflict, keeping in mind, of course, the need to effectuate the federal objectives directed by Congress.


A. E. Bielefeld
Field Solicitor, Billings

In duplicate

cc:

Superintendent, Bighorn Canyon National Recreation Area
Area Director, Indian Affairs, Billings

APPENDIX I

NON-FEDERAL LANDS

WITHIN

BIGHORN CANYON NRA

Non - Federal Lands Within The Boundary of Bighorn Canyon NRA

Tract No.		Acres	Buildings and Other Structures
65 Tracts	Mineral rights on land in Wyoming	10,489.00	
03-110	C. E. Lewis Estate	39.99	No structures
03-109	Tillet, Bessie F., et al	732.00	One 30' x 60' old nightclub bldg, (closed). Sykes cabin 20' x 20', log.
03-109	Tillet, Bessie F., et al	570.00	One old 3-rm stone and log house. Small shed and pole corral.
05-159	Tillet, Bessie F., et al	87.50	No structures
07-101	State of Montana, Carbon Co.	166.09	
07-102	State of Montana, Carbon Co.	174.00	
07-103	State of Montana, Carbon Co.	(19.91)	ROW

APPENDIX J

PARK PURCHASED

HEAVY DUTY EQUIPMENT, BOATS AND MOTORS,

AND

RENTAL VEHICLES FROM GSA

PARK PURCHASED HEAVY DUTY EQUIPMENT

North District

Bulldozer, International Harvester, Diesel, TD-6 with hydraulic blade

Grader, Champion Diesel, Mod-715

Backhoe, Ford Diesel, Mod 420 3/4 yard bucket

Front End Loader, John Deer, Diesel Mod 544B

Road Roller, Gallion

Road Sweeper, Wayne Mod 660

Tractor, Ford Diesel, Mod 6610 with side and rearmounted flail mowers

South District

Grader, Austin Wester, Diesel Pacer 300

Backhoe, Ford Mod 420 3/4 yard bucket

Bulldozer, International Harvester, Diesel, TD-15 with cable operated blade

PARK PURCHASED BOATS AND MOTORS

North District

(Interpretation)

1. 20' Apollo, 230 HP Merc.

(Protection)

1. 20' Bertram, 225 HP Merc.

2. 19' Whaler, 50 HP Merc.

3. 17' Whaler, 90 HP Merc.

4. 18' Riverboat, 90 HP Merc.

5. 12' Aluminum 9 HP Merc.

(Maintenance)

1. 17' Monarch, 115 HP Merc.

2. 19' Monarch, 115 HP Merc.

3. 36' Barge, Twin 115 HP Merc.

South District

(Protection)

1. 20' Bertram, 225 HP Merc.

2. 17' Whaler, 90 HP Merc.

3. 17' Whaler, 90 HP Merc.

4. 14' Aluminum 5 HP Merc.

(Maintenance)

1. 17' Monarch 115 HP Merc.

2. 36' Barge, Twin 115 HP Merc.

RENTAL VEHICLES FROM GENERAL SERVICES ADMINISTRATION

North District

(Administrative Division)

1. 1983 Chevrolet Citation

(Interpretive Division)

1. 1985 Ford F150 Pickup

(Protection Division)

1. 1982 Dodge Sedan
2. 1984 Ford Club Wagon (Ambulance)
3. 1985 Ford F250 Pickup

4. 1986 Plymouth Sedan

(Maintenance Division)

1. 1978 GMC Dump Truck
2. 1981 Dodge 1-Ton Pickup
3. 1980 Ford 4x4 Pickup w/winch
4. 1985 Chevrolet S10 4x4 Pickup
5. 1980 Dodge Utility Truck
6. 1981 Dodge 1 Ton Stake Truck

South District

(Interpretive Division)

1. 1985 Ford Pickup

(Protection Division)

1. 1986 Plymouth Sedan
2. 1983 Dodge Ramcharger w/winch
3. 1983 Chevrolet Caprice S/Wag.
4. 1985 Ford 4x4 Pickup

(Maintenance Division)

1. 1975 GMC Dump Truck
2. 1984 Dodge 4x4 Pickup w/winch
3. 1984 Dodge Crew Cab Pickup
4. 1985 Dodge 3/4 Ton Pickup
5. 1984 Ford Ranger

APPENDIX K

STATUS OF PLANNING

Name of Study/Plan	Preparer	Year Completed	Comment on Adequacy	Repository
General Management Plan & Env. Impact Stmt. & Wilderness Recommendation	Region/Park	1981	Adequate	WASO/RMR/BICA
Statement for Management	Park	1984	Updated Annually	WASO/RMR/BICA
Nat. Res. Mgmt. Plan	Park	1983	Updated Annually	WASO/RMR/BICA
Cul. Res. Mgmt. Plan	Park		Updated Annually	WASO/RMR/BICA
Land Protection Plan	Park/Region	1986	Adequate	WASO/RMR/BICA
Interpretive Prospectus	Park	1979	Adequate	WASO/RMR/BICA
Superintendent's Orders	Park	1983	Updated Annually	WASO/RMR/BICA
Historic Structures Rpt.	DSC	1974	Need Additional	DSC/RMR/BICA
Historic Base Data Rpt.	DSC	1970	Needs Update	DSC/RMR/BICA
Hist. Site Mgmt. Plans	---	---	Needed	-- -- --
Reservoir Mgmt. Plan	Wirth Assoc.	1974	Outdated	RMR/BICA
Concessions Economic Feasibility Study	Ernst & Ernst	1978	Needs Update	RMR/BICA
Pryor Mt. Complex Plan	BLM	1974	Adequate	RMR/BICA
Lovell VC Exhibit Plan	Harpers Ferry	1976	Completed	HAFF/BICA
Mgmt. & Admin. History	Park/Region	1978	25% Complete	RMR/BICA
Wayside Exhibit Plan	Harpers Ferry	1981	Adequate	HAFF/RMR/BICA
NPS/Crow Indian Rel. Chronology	Park	1978	Needs Update	BICA

Name of Study/Plan	Preparer	Year Completed	Comment on Adequacy	Repository
Physical Security Plan	Park	1979	Updated Annually	BICA
Dam Emer. Response Plan	Park	1986	Adequate	RMR/BICA
Water Quality Sedimentation Study	Bur. of Rec.	1983	Adequate	BICA
Vegetative Inventory	Wyoming-NPS Res. Center	1986	Adequate	RMR/BICA
Vertebrate Inventory	Wyoming-NPS Res. Center	1986	Adequate	RMR/BICA
Comprehensive Bibliography (Bighorn Basin)	Wyoming-NPS Res. Center	1983	Adequate	Univ. of WY
Bear Management Plan	Park	1981	Adequate	BICA
Socio-Economic Study	Wirth Assoc.	1976	Outdated	RMR/BICA
Grazing Management Plan (Dryhead)	Park	1985	Adequate	RMR/BICA
Yellowtail Wildlife Habitat Management Plan	WY Fish & Game	1977	Updated Annually	F&G/BICA
Rec. Develop. Proposal for Crow Tribe	Ernst & Ernst	1964	Outdated	BICA
Arch. Survey on Crow Lands	Good	1975	Adequate	RMR/BICA
Arch. Survey of Grapevine Creek Area	Good & Loendorf	1974	Adequate	RMR/BICA
Transportation Study Barry's to Ok-A-Beh	Wirth Assoc.	1975	Outdated	BICA
Bighorn Canyon History Vol. 1 & 2	Bearss	1970	Adequate	WASO/RMR/BICA

Bighorn Canyon National Recreation Area
Status of Planning

Statement for Management
09-03-86

Name of Study/Plan	Preparer	Year Completed	Comment on Adequacy	Repository
Quarters Management Plan	Park	1986	Adequate	WASO/RMR/BICA
Wild Horse Mgmt. Plan	BLM	1984	Adequate	BLM/BICA
Wildland Fire Control Plan	Park	1986	Adequate	BICA
Safety Management Plan	Park	1980	Updated Annually	RMR/BICA
Dive Plan	Park	--	Updated As Needed	BICA
Cave Rescue Plan	Park	--	Updated As Needed	BICA
Emerg. Med. Ser. Plan	Park	--	Updated As Needed	BICA
Emerg. Operations Plan	Park	--	Updated As Needed	BICA
Evidence Mgmt. Plan	Park	--	Updated As Needed	BICA
Search & Rescue Plan	Park	--	Updated As Needed	BICA
Bighorn Cave Study	Park	--	In Progress	BICA
Bighorn Sheep Study	Park	--	In Progress	BICA
Action Plan - Director's 12-Point Plan	Park	1986	Updated Annually	RMR/BICA



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